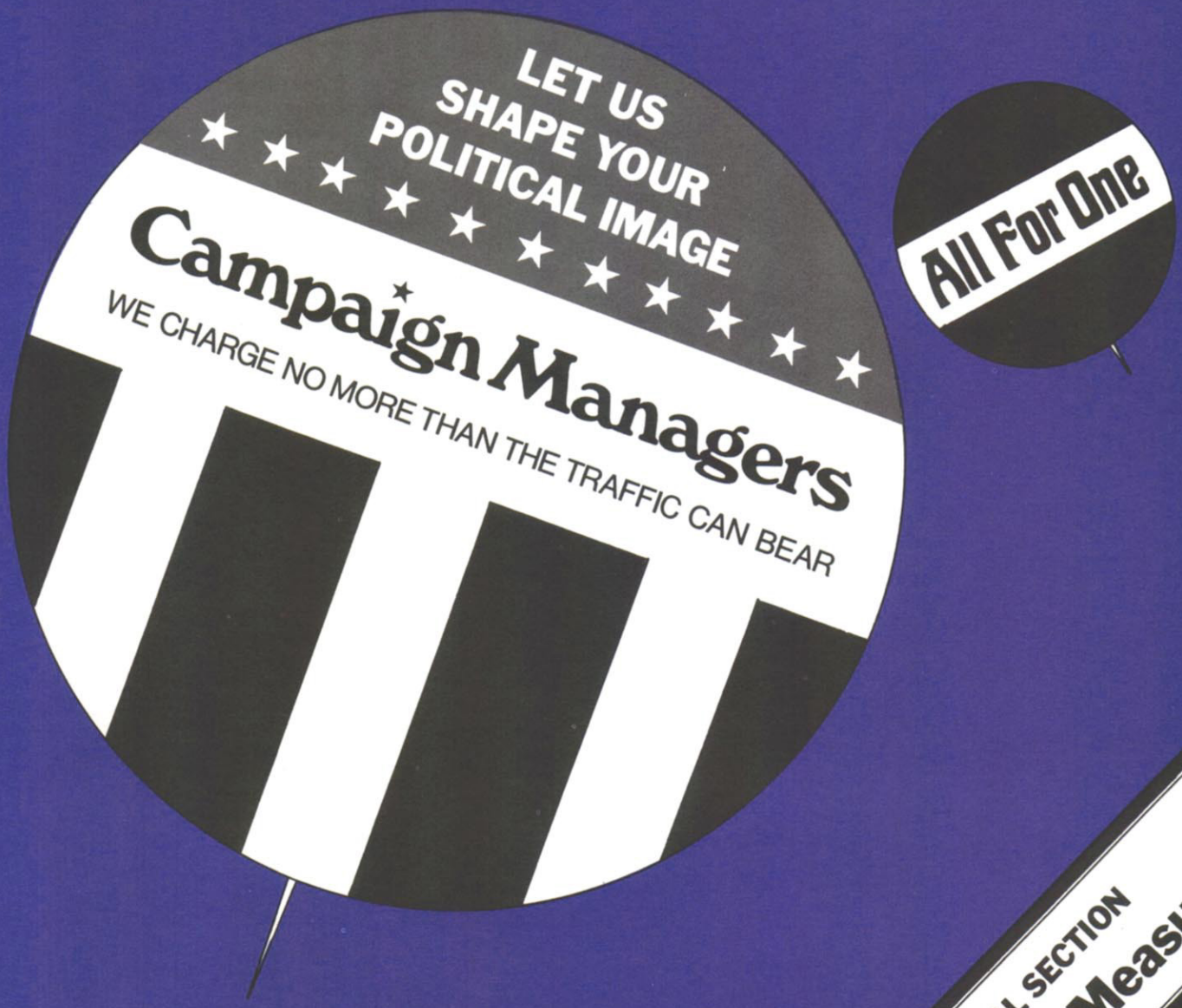
# California Journal

THE MONTHLY REPORT ON STATE GOVERNMENT AND POLITICS




SPECIAL SECTION

**June Ballot Measures**

**May 1974**

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# A PERSONAL PERSPECTIVE...

By Ed Salzman

## *The game of press and politics*

You might think that Dennis Opatrny of the *San Francisco Examiner* had committed a crime against God and nature the way some legislators — and indeed some fellow members of the Capitol press corps — reacted to his article supposedly listing the worst and the dumbest as well as the best and the brightest of the state's lawmakers. After all, doesn't journalistic tradition require that a correspondent report only what he sees and what he is told and not try to speculate on a public official's motivations? Aren't politicians to be revered and their public utterances taken at face value?

Watergate has changed the public view of politicians, but surprisingly few reporters have ventured into the field of New Journalism, in which irreverance is the by-word and politicians are viewed as skeptically as the notorious Boston press has eyed that city's athletic heroes for decades. Opatrny carries all the trappings of a New Journalist (although you could never tell it from his straight article on the unicameral legislature to be found elsewhere in this issue). His clothes reflect the now generation, his curly locks flow down to his shoulders and is matched by a faceful of hair. He is a hard-rock music fan, reads *Rolling Stone* and uses youth-culture slang. He digs swinging legislators and can't abide traditionalists.

Yet, Opatrny is hardly a New Journalist. Most of his articles for the *Examiner* follow conventional style, and his foray into rating the legislators, which was summarized in last month's "Newsbriefs", was an extraordinary event. The Capitol has its investigative reporters, who spend much of their time trying to unearth hanky-panky among the elected few. (Bob Fairbanks of the *Los Angeles Times* and John Berthelsen of the *Sacramento Bee* are the prime examples.) A few write opinion columns, but these are generally bland. In short, the New Journalism has yet to hit Sacramento.

* * *

Even the *Examiner* survey was nothing new. For many years, a similar survey was taken among members of the Capitol press corps. It was discontinued because of general lack of enthusiasm and misuse by those legislators who came out on the plus side. What made the Opatrny study a *cause célèbre* was the fact that he used the Legislature's own employees, mainly committee consultants, as the panel of experts. While there was nothing lawmakers could do about press corps surveys except scream, they could — and did — threaten to fire their employees if they dared judge their masters in public again.

As a matter of fact, the New Journalism itself is not new. There have been crusaders over the years who have treated elected officials with irreverance, daring to treat them as human beings with bad qualities as well as good. I. F. Stone operated for many years on the assumption that all politicians are liars and then succcessfully proved his theorem by citing the politicians' own utterances and official government documents. The main difference between the way I. F. and *Rolling Stone* have covered politics is that the rock-oriented magazine uses gutter language for emphasis and employs writers with far less knowledge and ability than I. F. Stone.

*Rolling Stone*, which is headquartered in San Francisco, is generally credited with being in the forefront of the New Journalism, although the Watergate affair has produced a general disenchantment with national politicians, even in the straight press. The way *Rolling Stone* covers politics can be studied in two books published by its staff writers — *Fear and Loathing on the Campaign Trail*, by "Dr." Hunter S. Thompson, and *The Boys on the Bus*, by Timothy Crouse. *Fear and Loathing* is supposed to be a New Journalism version of a Theodore White analysis of the 1972 presidential election, but it turns out to be a rather uninformative series of vignettes with Thompson the hero of each one. The Crouse book, a study of the way the press covered the 1972 presidential campaign, is worth reading (ignoring the idolatry of Thompson) because it tells what's wrong with the Old Journalism — chiefly the inability of the press to tell readers what the candidates are really like.

* * *

The New Journalism is taking hold rapidly in the east, if Richard Reeves of *New York Magazine* is any barometer. Reeves cites a willingness of reporters for the larger eastern newspapers and the television networks to lash out at political figures when they are hypocritical and not just report at face value what the officials are saying and doing. "For better or worse," he wrote, "I think the rules of the game of press and politics are changing — and I don't mean the rules for people who publish in *Rolling Stone* or *National Review*, but the rules for the networks, the *New York Times*, the *New York Daily News* and, inevitably, the *Sacramento Bee* and *Toledo Blade*."

Reeves may have been a bit optimistic at least as far as California is concerned. Opatrny has thus far been unable to find an acceptable means of informing the public about the caliber of the various officeholders in Sacramento, now that he has been cut off from his unpaid "panel of experts". No other newspaper seems ready to give its reporters the leeway to tell it the way it is unless each piece is backed by incontrovertible hard evidence, which usually means from official sources. The New Journalism has still not arrived in California, and the people really won't get the lowdown on their state government leaders until it has.



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# California Journal

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# Contents


**The image-makers** 149

Rarely glimpsed by the voter are the pros who peddle mystical verities that are supposed to convert campaign contributions into votes — and sometimes do, though at considerable cost.

○ **Political 'spots': still the same old pitch** 148

**Attempted comeback of the GOP progressives** 156

While Ed Reinecke's forthcoming perjury trial commands headlines, a shift in the power center of the Republican Party in California may be Campaign '74's biggest story.

**The Ballot Propositions**

The June 4th ballot contains nine propositions, and once again the *Journal's* editors have taken a close look at each and summarized their findings in an eight-page Special Report available as a reprint.

**Why congressmen are quitting** 161

Pay and perquisites no longer offset the red-eye commutes, marital strain and confrontation politics for a surprising number of California's representatives in Washington.

**Coming on strong: state's new auditor general** 163

Harvey Rose knows he's intense, believes in making waves and aims to save the state some money. That's what he did in San Francisco.

**$25 blue-plate special: not appetizing enough** 165

Letting you wear your name on your car was thought to be a painless way to raise millions for the environment. It may have been painless, but that's all.

**Nebraska's 'Unicameral' and the Golden State** 167

The one-house legislature has operated in the Cornhusker State since 1937, but the model being offered Californians differs significantly.

**Serrano's potential victims** 169

Big-city schools will be losers unless great care is taken in replacing the local property tax as source of public-education funds.


**DEPARTMENTS**


| | | | |
|---|---|---|---|
| Newsbriefs | 160 | California Calendar | 172 |
| Court Actions | 170 | Rollcall | 173 |
| Newsmakers | 172 | Lou Cannon | 175 |





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# Movies or TV: Still the same old pitch . . .

By Don H. Whitehead

*The year was 1934. You were sitting in a movie theater somewhere in California watching the short subjects. The camera went first to an elderly couple in front of a ramshackle house. The husband, an evil-looking fellow, declared that he was going to vote for the Democratic candidate, author Upton Sinclair. The camera switched to a couple in front of an attractive modern home. The husband, a pleasant-appearing gentleman, announced that he was going to vote for the incumbent Republican, Governor Frank F. Merriam.*

Political spot commercials may have left the movie house for the household television set, but they have changed very little in substance. The Democrats ran a spot in 1968 that projected the slogan "Agnew for Vice-President" on the screen against a soundtrack of laughter. The technique is not far different from the Frank Merriam commercial of 1934. In short, legislators have passed truth-in-advertising laws to restrain peddlers of toothpaste, automobiles and deodorants — but so far not those who peddle politicians.

And the importance of these spots cannot be minimized, at least in the eyes of those who use them. "I don't see how anyone can get elected to office anymore without running an effective television campaign unless the opposition isn't going to be on TV," explained Bud Arnold, a San Francisco ad executive who has handled advertising for Congressman Pete McCloskey, Los Angeles City Attorney Burt Pines and San Francisco Supervisor Dorothy von Beroldingen, among others. "It's the means of communication with the American people now."

Spots are designed to win votes based on a perceived image — on political "sex appeal" rather than on issues and ideas. "They glamorize what can be glamorized and bury what they don't want the public to know," observed Don Ringe, a news producer for KABC-TV in Los Angeles, who spent three years working for Spencer-Roberts, the campaign management firm. He cited the example of former U.S. Senator George Murphy's conflict-of-interest problem involving fees received from Technicolor in 1970. So Ringe produced commercials in which "the whole attempt was to portray him as a seasoned elder statesman, which he wasn't," in an effort to divert attention by focus on image (and also to play down the former actor's voice, hoarsened by a throat operation).

Arnold feels that television has had no effect on selecting candidates for political office, however. Candidates are not picked or ruled out because of how well they project on the tube, he said, since those who create the commercials to "market" them can mute the negative traits and accentuate the positive.

At a time when Americans are becoming increasingly skeptical about politicians and image-making generally, the use of spots may seem to be out of keeping with the times. That may be, but the business is nonetheless booming. In 1962, for example, the broadcasting industry handled $20 million in political advertising — 74 percent of it from spots a minute long or less. In 1970, another non-presidential year, the total was $50 million — with 95 percent from spots. These figures suggest that politicians are no longer buying many blocks of time but are relying almost exclusively on the slickly packaged spot. Television advertising experts cite these reasons for the trend:

- The more commercials a candidate buys, the more exposure he will get.
- Those willing to tune in to a half-hour special most likely are already committed to the candidate and no longer need to be converted.
- Shorter commercials allow a politician to deliver "less of a message with more of an emotional impact", according to Ringe.

Advertising executive John E. O'Toole would reverse the trend by placing a five-minute minimum length on political commercials. "I don't think political image-builders would risk the ennui inherent in five minutes of groovy music and up-shots of a grinning candidate," he explained. "I don't think they could successfully refrain from giving us a glimpse of our man for five minutes or manage to elude every issue. And I am at least hopeful that they would see the peril in a full five-minute implication that the other guy is a fascist freak."

Ringe is more skeptical of the public's ability to penetrate political packaging of even a half-hour program. To him, only a ban on political commercials would constitute effective reform.

Ringe and Arnold agree, however, that it is possible for a candidate to say something worthwhile in only a few seconds. "In McCloskey's case," Arnold recalled, "he was able in 30 seconds to make his opposition to the war in Vietnam quite clear, coherent and unmistakable. The same can be done with other vital issues." These professional communicators also cited examples of commercials that they thought didn't work, listing Governor Reagan's spots on behalf of his defeated tax-limitation initiative and John Tunney's 1970 commercials in his successful campaign to oust Murphy. Arnold is especially harsh on the Tunney commercials: "They said nothing — 'Put a fighter in your corner.' It was sloganeering and glamour." Nor is Ringe proud of those "elder statesmen" spots he did for Murphy, which he feels said even less.

Legislative regulation of the length of political spots appears dead, since a bill to place a one-minute minimum length on spots was defeated in Congress. Any change now in tactic or substance must rest, therefore, with the candidates and how they judge the mood of the voters after the continuing scandal stemming from the 1972 Republican presidential campaign. And what that may be is far from clear. Ringe's view is that the campaign-planners are "all sitting around trying to figure out what the hell to do this year. I just don't think the public is going to buy that bull anymore." That notion remains to be tested.

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*The author is currently working on a statewide political campaign. He prepared this article while on the staff of the* Huntington Park Daily Signal.

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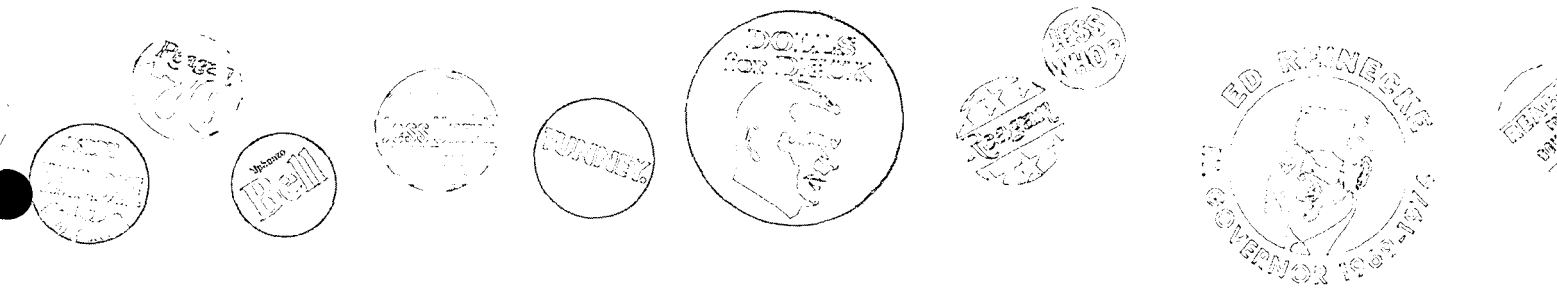


# THE IMAGE MAKERS

## Behind the mystique of the powerful but unseen manipulators of the California political process. How campaign management firms sell their products and convert their clients' cash into votes.

**By Nancy Boyarsky**

The congenial man sitting across the desk was slightly rumpled in appearance, on the young side of middle age, his hairstyle a little short to be fashionable. His office was comfortable, but unpretentious and cluttered. It looked as though he had not quite finished moving in. In a tone skillfully balanced between authority and suggestion, he outlined the strategy for my political campaign — finance committee, free media, paid media, public-opinion polls, computer mailings, precinct workers and get-out-the-vote.

The man was Joe Cerrell, head of a firm handling Democratic candidates for important state, local and federal offices, as well as ballot-initiative campaigns. But the same description could fit almost any one of the handful of professionals who run California's campaign-management firms. They had been asked for information about their work for an article describing who they are, what they offer their clients and how much it costs. With few variations, the same scene was repeated in each of the interviews with the state's best-known political strategists. Almost without exception, each described his mode of operation in terms of an imaginary campaign tailored to the person inquiring about it. In this case, the candidate was named Boyarsky and was running for statewide office.

Every manager interviewed combined the same personality traits: An engaging story-teller, a concerned friend, a high-paid professional sympathetic because his time is costing so much money. The men who run political public relations firms are superlative salesmen, masters of the soft sell. One of their favorite topics is how carefully they pick clients, turning away more business than they accept. While telling how difficult the race will be, they make it sound not only plausible, but exciting. The hypothetical Boyarsky campaign began to take on a reality and momentum of its own.

As I left each firm's office, the vision had grown: I could win if I could just persuade this fellow to manage my campaign. It took a few minutes for my head to clear and for me to remember that I actually had no political aspirations; I was a journalist assigned to write a story.

*The author, a free-lance writer in Los Angeles, has written a book on the constitutional rights of juveniles and has co-authored a book on state and local government.*

### 'Robin Hood game'

Almost all of the men running these firms refused to tell what their services cost. And none would admit any knowledge of what other firms charge, although this information is a matter of public record in the campaign-expense reports candidates must file. From the management fees listed in these records, charges vary considerably, running from $1,000 to $10,000 a month and up. The managers' disinclination to discuss this is understandable since they do not charge everyone the same. Fees seem to be based on a client's willingness and ability to pay.

In other words, most firms charge what the traffic will bear. "We play a Robin Hood game many times," one manager said. "If it's a lucrative campaign, we'll charge more than we can charge on a smaller campaign that we know will not be well-funded."

### The mystique dims

Professional campaign-management firms working California's election campaigns are few in number. While 40 or 50 individual managers may drift in and out of campaign work during an election year, fewer than a dozen stay in the business all year and maintain permanent offices and staffs. By promoting publicity about their work — and often themselves — the men running these firms have built up a mystique about the craft of political management. It reached its height shortly after Governor Ronald Reagan was first elected. Then, according to legend, a good political management firm — given enough money — could elect just about anyone, outsmarting voters with scientifically directed ads and the use of computers and polls to manipulate issues. It was thought, for a while, that management by Spencer-Roberts and Associates, who ran Reagan's '66 campaign, guaranteed victory for any candidate able to afford the company's services.

The legend has dimmed. In 1970, Spencer-Roberts clients suffered a series of Republican state legislative losses that gave Democrats a majority. Even more disastrous was the firm's brief handling of Jess Unruh's 1973



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campaign for mayor of Los Angeles: After a few months, $30,600 of Unruh's campaign budget, and commissions on $18,500 in advertising, Spencer-Roberts was "reorganized" out of the campaign.

Touring the management firms provided a clue to California's political climate this year. Most firms specialize in either Republican or Democratic candidates. After eight years of a Republican state administration and the Watergate scandal at the national level, many Republican management firms have fallen on lean times. Some are branching into races in other states and into other kinds of work. Democratic firms, on the other hand, are experiencing an unequaled period of prosperity — notably Cerrell and Associates in Los Angeles and Weiner and Company in San Francisco.

Campaign-management firms — all of them small — represent only a small percentage of the 700 or so candidates for state elective offices this year. Of the nine prominent firms contacted, the largest load is ten clients.

### Ultimate entrepreneur

But the impact of these firms remains significant. The customers include candidates for the top statewide offices, including several gubernatorial hopefuls. More important, theirs tend to be among the best-financed campaigns. In that sense, they are a major force in political campaigns in California, for their decisions often set the tone, and price tag, on races for the most important and influential elective offices. Many of them have also developed an imaginative repertoire of services to sell in off years, reinforcing the image of the ultimate entrepreneur.

## *Profiles of nine leading political management firms.*

*Baus and Ross Company.* This Republican campaign-management company dates back to 1948. Baus retired a few years ago. The remaining partner is Bill Ross — a tall, distinguished-looking, white-haired man with the comforting manner of a family doctor who has known you for years. Like the others, he loves to talk.

Ross says he limits himself to a small load — usually only two candidates a year. "We built this business on the basis of our personal participation and not building a big staff. That's a mistake a lot of people in this business have made. They take on all the work they can get and hire a bunch of John and Jane Does to do their work. It doesn't work that way." Aside from Ross, the company has five employees, including those who do the creative work for the ad agency that is part of the firm.

Ross personally supervises the hiring of campaign staff and day-to-day operations for any client accepted. Another specialty he stresses is that his agency handles only political material. As a result, Ross feels he knows what goes over with voters and what doesn't. "I've seen candidates making this mistake time and again. They wind up with a so-called slick Madison Avenue job. Political stuff should not be that slick . . . . You just don't sell a candidate like you would cigarettes or coffee or whatever else it is you're marketing."

### High fees

The company's promotional literature lists an impressive number of campaign victories, winning 94 of 105 state and local campaigns since the late forties. The sheet does not list the only campaign handled in 1973 — Tom Reddin's disastrous bid for the Los Angeles mayor's office — in which he finished fourth in a crowded field.

Ross concedes that his fees are high. He won't touch a campaign for less than $20,000, and the fee can reach $100,000. He requires a deposit and cash in advance for placing advertising. An example of his rate was found in the 1970 report of Evelle Younger's campaign for state attorney general. Of $326,183 reported, more than $77,000 was paid to Baus and Ross for management, an average of $13,000 a month. In addition, there is usually a 15 percent commission on advertising, another major item in the campaign budget.

The high fees don't, however, make up for the lack of campaigns in non-election years. "It's almost like the citrus industry . . . ," Ross said. "You try to break even the other years."

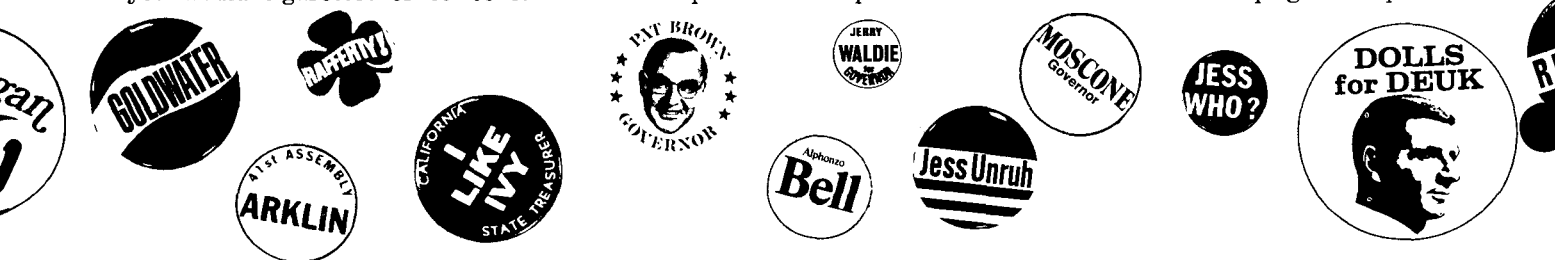
Ross advises businesses on what he calls "governmental relations". "We help them make presentations to get their views known," he explained, "but we don't lobby." This can include helping prepare corporate executives for meeting with the new coastline-preservation commissions. "We take the guys in the engineering department, the management department, [and say]: 'This is what you've got to do to get along with those guys at city hall. Do your proper work with the staff; get your facts in line for the commission. Don't bore those guys with a long-winded presentation' — this kind of thing."

Ross' current political clients are Evelle Younger for attorney general and Phillip Watson for Los Angeles County assessor.

*Cerrell and Associates.* Joe Cerrell is a dark, rotund man who looks older than his 38 years. A great story-teller, he manages to be entertaining despite his constant digressions.

Cerrell rose to prominence working on the campaigns of Governor Edmund Brown and Vice President Hubert Humphrey in 1968 and 1972. Cerrell and Associates is the firm that has grown the most this election year. It has ten candidates in the primary election and claims to have quadrupled the staff to 30 as of April.

Cerrell's mode of operation is centered in his office rather than in his candidates' campaign headquarters.





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He is consulting or handling only a portion of each of his ten campaigns. "Prior to 1970," he explained, "we were usually into just one major campaign. That's the way I used to work." That changed after he accepted management of Major Joseph Alioto's campaign for governor in 1970. Embroiled in legal difficulties, Alioto dropped out. "I had put all of my eggs in that basket," Cerrell recalled. "Then all of a sudden I had to ask, 'Gee, what're we going to do?' . . . Now, we go into many campaigns. I am not *the* manager. I am only one of the managers."

Cerrell's function today is to oversee his staff. But he says he is freely available to clients for personal consultation by phone. How often? "Hourly — but they think it's weekly, so that probably averages out to daily."

Joe Cerrell

His fees seem to vary. He has a chart he uses to calculate staff and overhead costs for each client. For example, he said, he charged the now-defunct Moscone gubernatorial campaign $5,000 per month for management. But he later figured out that it was costing him $5,825 a month in staff and overhead. Had the campaign continued, Cerrell said, "I would have said to Moscone, 'We're spending $5,825 a month', and figured out what I wanted above and beyond that . . . . As far as I'm concerned, it's just cost-plus."

The firm handles advertising as well as management, and sometimes charges a 15 percent commission on ads placed, but this is open to negotiation. He charged Edmund G. Brown Jr. $1,000 a month to manage his campaign for Los Angeles Community College Board of Trustees several years ago. Campaign records show Assemblyman Walter Karabian paid Cerrell $5,940 in management fees for a 1972 primary campaign that raised a total of $70,285. According to campaign records, the firm received $10,480 in fees, plus $12,886 in expenses, for partial handling of Proposition 18 in 1972, the so-called obscenity initiative.

Cerrell's specialty is free media — getting and keeping his clients in the news. He has an extensive knowledge of regional and ethnic newspapers and their areas of influence, of small-town radio and TV stations and their audiences, and of news deadlines. Such information is helpful in staging news events and press conferences when and where they are most likely to attract coverage.

Cerrell and Associates has a variety of sidelines to keep its permanent staff of seven floating in off years. "In Democratic campaigns, the fee is so poor or moderate at best that the profit isn't there that allows you the luxury of having bad months," Cerrell explained. The firm does advertising and publicity for companies like PSA, Roy Rogers' Western World, and National Medical Enterprises, and also advises companies on governmental relations. Cerrell also owns an interest in a small French restaurant.

Cerrell and Associates' candidates in the primary campaign are Joseph Alioto for governor; Mervyn Dymally for lieutenant governor; Robert Mendelsohn for state controller; Gray Davis for treasurer; Walter Karabian for secretary of state; a Los Angeles County supervisorial candidate; and one in a San Bernardino congressional race. In March, two Cerrell-managed candidates for Beverly Hills City Council lost.

*Lyn Nofziger.* This new Republican management firm is run by Lyn Nofziger, a former Reagan adviser. He is a roly-poly man who seems to enjoy chatting about his work. He laughs a good deal at his own jokes and appears relaxed — shirt sleeves rolled up, one foot up on his chair, a shoe dangling half off. But the veneer of joviality masks an aggressiveness, ambition and dedication to expediency that will undoubtedly crop up in any campaign he manages. An example of this appeared in the early Reagan years, when Nofziger leaked to the press details of a homosexual scandal in the administration. Later, he admitted privately that he had maneuvered for the incident to become public well in advance of the 1968 presidential campaign — before it could hurt Reagan's prospects.

### 'If you stay out of trouble . . .'

A conservative who had once been a political reporter for the Copley newspapers, Nofziger left the Reagan administration in 1969 to manage Max Rafferty's unsuccessful campaign for U.S. Senate. Afterward, he set up a public-relations agency. Eventually, he went to work for the White House, and in 1972 became executive director of the California Committee to Reelect the President. Nofziger is proud of his party connections and considers this part of what he offers clients. "If a candidate has a consultant who's known and respected in the party, it's easier for him to get support."

Lyn Nofziger

His style of operation is to keep his staff small, avoid day-to-day operations and consult candidates on overall management. The firm includes, besides Nofziger, one full-time management-level employee specializing in events and organization, and a small office crew. They work in a tiny suite in Sacramento's old-fashioned, marble-halled Forum Building. Among the office decorations are fluorescent signs with sardonic mottos. As he talked, Nofziger gestured toward one of them: "The orange one's the one I really live by," he said. It read: "If you stay out of trouble, everything else is a plus."

Another Nofziger specialty — for an additional fee — is speechwriting, and he often decides what issues his candidates will campaign on. He might recommend a television coach and a speech expert to clients as well as give advice on matters of dress and appearance, though leaving major image changes to an off year. He refuses to discuss fees and,


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since his firm is new, campaign records offer no clues.

After the 1974 political season ends, Nofziger expects to handle government relations and non-political public relations. "I would think there are going to be people looking at 1976 — nationally or statewide or whatever — who are going to want some early help," he added. A prime contract would be getting Reagan's business if the Governor decides to run for President. "I was there at the beginning," said Nofziger. "I'd like to be there for the end."

His candidates are Earl Brian for U.S. Senate, Gordon Knapp for Congress and Leo Thorsness, an ex-POW challenging Senator George McGovern in South Dakota.

*Spencer-Roberts and Associates.* Stuart Spencer, the president of Republican-oriented Spencer-Roberts, is a pleasant-looking, gray-haired man who, like the other managers, is talkative, with an accommodating charm and nervous manner peculiar to high-class salesmen.

Surprisingly, the company that established the reputation of management firms in California had planned to do nothing in state politics this year except handle a few reelections for old customers. In business since 1960, the firm has been plagued by a losing streak in recent years. This year, Spencer said, the firm decided to seek "a better balance of commercial clients." Then, in March, the company signed on as political consultants to Republican Houston I. Flournoy's gubernatorial campaign.

### Total management

The Spencer-Roberts firm includes an ad agency. The usual mode of operation in a campaign is total management, with Spencer or Bill Roberts overseeing daily operations. Their forte has been research for their candidates — statewide polls that show which issues to focus on. It is the only management firm to have its own polling operation. This means that a campaign run in Spencer-Roberts' preferred style is an expensive campaign. "It costs $17 an interview or more," said Spencer, "so when you're talking about the State of California, you're talking about 1,000 samples. You can spend $25,000 to $30,000 in a hurry." Such polls must be followed up periodically with briefer interviews to detect changes in voter concerns. That, too, is costly.

Spencer declined to discuss fees, but said that it is generally known that the first Reagan campaign brought the firm $150,000 over 18 months. Costs seem to vary. "A lot depends on the size of the race, the involvement you have to put into it. You look at the kind of grief you have to take and say, 'That's worth dollars to us'." An example of Spencer-Roberts' fees can be seen in records from Joseph Busch's primary campaign for Los Angeles County district attorney. Management personnel cost about $20,000, part of which would be Spencer-Roberts' payment. There would also have been a 15 percent commission on $94,000 in ads.

Spencer says Flournoy is the firm's only major California political client, and lists Suntory (a Japanese whiskey), Akadama wine, and the Diamond publishing house of Japan as major commercial clients.

Jack McDowell

*Spencer-Roberts, Woodward and McDowell.* One partner is Jack McDowell, a heavy man whose short, thin hair is parted in the middle and slicked down. The hairstyle gives him a somewhat comic appearance that is contradicted by a serious, even overbearing manner. An ex-newsman and Pulitzer Prize winner, McDowell battles attempts to get information from him with the zeal of a reformed drunk refusing liquor. Most questions were fended off with answers such as: "I can't tell you that, and if you turn off your tape recorder, I'll tell you why"; "No comment"; and a cryptic "Protecting our clients is everything."

Although this San Francisco-based Republican firm bears the name of Spencer-Roberts, the original firm has no financial interest in it. Two and a half years ago, two Spencer-Roberts employees, Dick Woodward and McDowell, took over the San Francisco office. They agreed to pay Spencer-Roberts a yearly fee for use of the name and to steer all advertising through the Los Angeles firm, splitting the 15 percent ad-agency commission with them.

The firm's one 1972 political candidate was Republican Warren Boggess, who lost the race for the 10th Assembly District. Records show that total management costs in that campaign ran under $5,000, with ad costs exceeding $30,000 (though the commission would have been shared with the Los Angeles Spencer-Roberts firm).

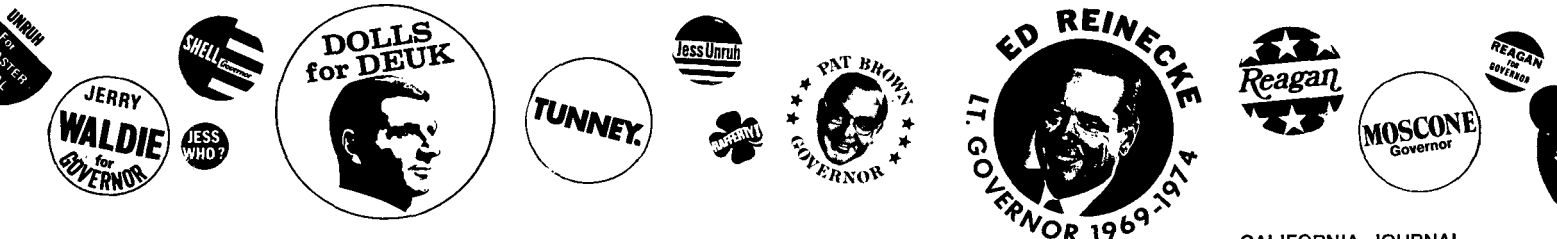
### Commercial accounts

McDowell said that his company supplements political work with commercial accounts, including Boise Cascade, a company that recently closed out most of its California interests after land-development projects came in for criticism from law-enforcement agencies. "With most commercial accounts we're considered for, these people have some interest in government relations," McDowell said. "We investigate the problem, analyze and consult, but we do no lobbying . . . . We sell consultation and advice."

Current political clients are Assemblyman William Bagley for controller and an out-of-state client McDowell declined to identify.

*Weiner and Company.* Sandy Weiner, who owns Weiner and Company, is a round-faced, bespectacled, owlish-looking man. His appearance is unassuming and his tired, flat voice gives the impression that he is worn out from overwork.

Weiner usually handles Democrats, but occasionally will take on a moderate Republican. He is best known perhaps for his role in Norton Simon's 1970 Republican primary bid



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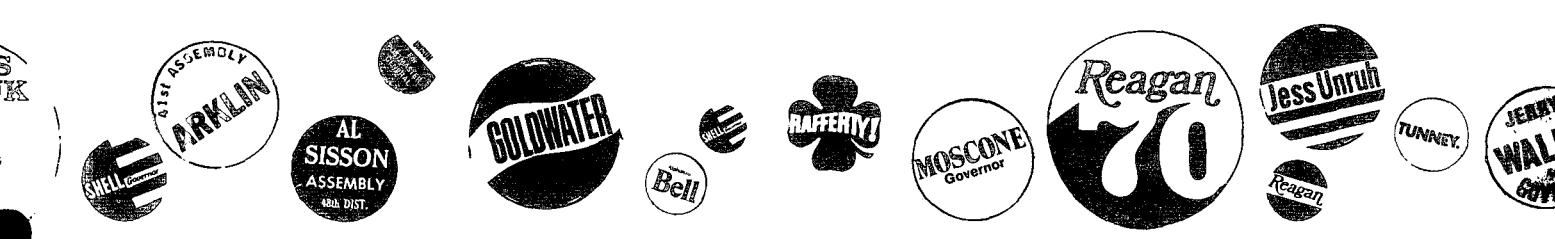


against the then-incumbent U.S. senator, George Murphy. Weiner staged a whirlwind campaign for Simon that lasted 66 days and cost $2 million in advertising. Weiner's fee was $100,000. Simon lost, but became well enough established in the voters' minds to draw 33 percent of the Republican vote in the primary.

With a half dozen clients signed up, Weiner's firm will expand from nine employees to 18. Campaign strategy is mapped out in a detailed document that runs from 40 to 300 pages. Three or four copies are made, and they are shown only to a candidate and to the candidate's committee. "Central portions of each campaign go on from this office," Weiner said. "This is where all the creative work happens, where material is designed, where policies are made. People who do that, work here. Secondly, we will hire people for the campaigns themselves. They will either be on our payroll or on the campaign payroll. These are people who will run a headquarters, be a field manager in a certain area of the state, etc."

**Sandy Weiner**

Weiner's role is supervisory, and he feels his real specialty is editing TV spots. He says that he is one of the few managers who does this himself.

His fees vary. For a statewide candidate, he said, six months of full direction, including some staff, would cost between $20,000 and $25,000. Campaign records for Representative Pete Stark's 1972 campaign show that in the general election Weiner and Associates were paid $10,000 in fees over six months. Weiner says he does not take the usual 15 percent ad commission.

This firm's candidates included Joseph Alioto for governor (until Weiner quit in March), March Fong for secretary of state, three Assembly races, and reelection campaigns for Representative Stark and liberal Republican representative Pete McCloskey.

*Whitaker and Baxter.* Of all firms contacted, Whitaker and Baxter alone provided no information about their operation. Both Clem Whitaker Jr. and Mike Abramson, who run the firm, vowed cooperation but, after requests by phone and letter, neither could be pinned down to an interview.

The firm — which has traditionally shunned publicity — is the oldest campaign-management company in the country. It was started in 1933 because of a ballot initiative put up by P.G.&E. to establish a federal water-and-power project. This was opposed by other private power companies, which would have been hurt by it, and these hired a young newspaperman, Clem Whitaker, to campaign against P.G.&E. He did, and won. Later, along with his wife, Leone Baxter, he managed many initiative campaigns as well as campaigns attempting to influence national legislation.

Whitaker is now dead, and his son runs the business. The company rarely handles political candidates, preferring ballot issues. In an interview with John Berthelsen of the *Sacramento Bee*, Whitaker Jr. said, "I prefer issues to candidates. Issues are subject to definition, delineation and discussion in a rational manner. The hyperbole that flows around candidates obscures the issues." The firm has not handled a candidate since its disastrous attempt to elect Shirley Temple to Congress in 1967.

## Slogan politics

Whitaker and Baxter's method is research — looking into every aspect of existing laws on the subject, closely questioning everyone who might be affected by the proposed measure. With that information, the firm drafts a series of slogans that will be repeated in hundreds of thousands of dollars of radio and TV spots, on billboards, and in newspaper advertisements. The money is put up by the conservative business interests who retain Whitaker and Baxter to fight their battles.

In 1972, the firm managed the campaign against Proposition 20, the coastline initiative. This proposal was backed by conservationists whose main goal was to protect California's beaches from land development. Whitaker and Baxter coined a phrase designed to frighten people into voting against it ("The beach belongs to you — don't lock it up"), intimating that passage would ban the public from the beach. But the proponents of the initiative were able to turn the issue around by attacking Whitaker and Baxter's methods, the big special-interest money behind them, and the misleading slogan.

Over a million dollars was raised and spent fighting the initiative. Of that amount, $50,000 was Whitaker and Baxter's fee, paid to Campaigns, Inc., which is the firm's campaign-management division. Another $243,527 in advertising was placed through the Whitaker and Baxter ad agency. (Most agencies keep 15 percent of such funds. Since the committee opposing the initiative was headed by Whitaker and run from the firm's office, it is impossible to tell whether the firm also took commissions on other large sums of money used to buy ads on radio, television and in newspapers.)

In 1973, Whitaker and Baxter handled a portion of the campaign against Proposition 1, the Reagan tax-limitation initiative. The campaign was run mostly by donations from the California Teachers Association and the California State Employees Association. Whitaker and Baxter were paid $30,000 for their services. Another $114,346 was spent through the firm's ad agency, of which the company presumably kept 15 percent.

**Chuck and Leslie Winner**

*C. and L. Winner and Associates.* The Winners, Chuck and Leslie, are the newest Democratic firm, in business for just a year. Winner is a like-



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able, young-looking man in his early thirties with a neatly trimmed beard. His soft-spoken wife is the daughter of state Senator Alfred Song. Both have worked for the Legistlature and in the early California Muskie-for-President campaign.

The Winner operation is small. It consists of the Winners and another associate, Ross Clark. "It's very difficult to find people who have the experience, who have been in it for some time, and who, number one, can gain the confidence of the candidate and his supporters," Winner said. "And then we have to find someone whom we can work with." The firm also has a statistical researcher named Rick Taylor, who comes in at the beginning of a campaign to study the district being sought. He is currently being paid half by the Winners, half by backers of Assembly Speaker Bob Moretti's campaign for governor. Taylor's research enables the firm to do what they call "targeting aspects" of precincts — predicting which areas are most favorable for candidates and which are hopeless.

This firm is the only one that openly discussed fees. "We say that 20 percent of the money that comes into the campaign will be our fee," Winner said, "with a minimum of $2,500 to $3,000 a month." If the company is hired as campaign consultants, the fee is about $1,500 a month.

The firm works a little differently than most. It can place ads, but does not take a commission. Billings for ads, printing, supplies and personnel are not run through the Winners. Already the young firm has faced some of the traditional perils of the business. "We figure that after our first year," said Winner, "our billings will reach somewhere between $75,000 and $100,000, but as of February our candidates were in arrears to us for over $15,000."

The Winners don't expect a gap in their busy season after November. As Leslie Winner explained: "Until a couple of years ago, campaigns were three months long. Now, some of them start two years ahead of time . . . ."

The firm is handling three Democratic candidates. Winner is assistant manager for Moretti's campaign, running the Southern California operation. Other clients are Hirsch Adell for Assembly and Gray Davis for state Treasurer.

*George Young and Associates.* George Young's conservative appearance and formal manner make him seem much closer to 50 than to his actual age, which is under forty. One of his specialities is running a school for campaign managers, and his conversation seems drawn from his lectures. He tosses out phrases that startle, and awaits a reaction: "All races are badly run." "We don't personally claim to be able to fill more than one percent of a candidate's needs ourselves." "If you look at what a candidate needs in order to communicate his qualifications and ideas to the electorate, most campaigns reach no more than 25 percent of that need." "Most winning campaigns are bad campaigns. They just happen to be up against one that's worse."

Young's business is "a little slower developing this year than usual," but he nonetheless produced a long list of clients. The firm's plum is a contract with the Republican National Committee to run a campaign-management school. Managers from around the country are sent to Young for a weeklong course on professional skills. The contract is to train ten persons per week over 12 weeks.

The Young firm was set up in 1971 after Young left Spencer-Roberts, where he had worked for eight years. Almost all accounts involve complete management because, Young feels, "there is a greater contribution to the quality of the campaign where we do that." The firm is also an ad agency, and usually charges a 15 percent commission. Management fees generally run from $3,000 to $10,000 a month, with two or three people put to work on the campaign. This seemed to be confirmed by campaign records. In a report from Carlos Moorehead's congressional campaign of 1972, for example, Young received payments that averaged out to $6,000 a month.

This year's clients are Brian Van Camp for secretary of state, some Hawaiian legislative hopefuls, a Hawaiian state senate candidate, and a candidate for the Arizona governorship. Republican Senator Robert Lagomarsino of Ventura County, a Young candidate for Congress, made national headlines in March, when he won after a string of post-Watergate GOP defeats.

## A directory of campaign-management firms

The following listing is not exhaustive but includes the major professional campaign-management firms in California:

**BAUS AND ROSS CO.,** 2796 E. 8th St., Los Angeles 90023; (213) 388-1107.
Bill Ross runs this Republican-oriented firm that usually limits itself to no more than two candidates. Current clients include Evelle Younger for attorney general and Phillip Watson for Los Angeles County assessor.

**CERRELL AND ASSOCIATES,** 5967 W. 3rd St.,. Room 302, Los Angeles 90036; (213) 938-2926.
Joe Cerrell started with Pat Brown's campaigns and today specializes in Democrats, including the following statewide slate: Joseph Alioto for governor, Mervyn Dymally for lieutenant governor, Robert Mendelsohn for controller, Gray Davis for treasurer, and Walter Karabian for secretary of state.

**LYN NOFZIGER,** 1109 9th St., suite 833, Sacramento 95814; (916) 442-9061.
Governor Reagan's former press secretary quit Ed Reinecke's campaign for governor to form his own Republican management firm in which he stresses party contacts and speech writing. Clients include Earl Brian for U.S. senator, Gordon Knapp for Congress.

**SPENCER-ROBERTS AND ASSOCIATES,** 1300 W. Olympic Blvd., Los Angeles 90015; (213) 383-3124.
Republican-oriented Spencer-Roberts had planned to sit out 1974 as a Democratic year but apparently reconsidered and now is managing Houston Flournoy for governor.

**SPENCER-ROBERTS, WOODWARD AND MacDOWELL,** 22 Battery St., San Francisco 94111; (415) 392-1212.
Republican-oriented firm spun off Spencer-Roberts several years ago and no longer is financially tied to it. Current clients include Assemblyman William Bagley for controller.

**WEINER AND COMPANY,** 517 Washington St., San Francisco 94111; (415) 986-5545.
Sandy Weiner handles Democrats and liberal Republicans. Candidates include Assemblywoman March Fong for secretary of state and Congressman Pete McCloskey.

**WHITAKER AND BAXTER,** 870 Market St., San Francisco 94102; (415) 781-3751.
Begun in 1933 to oppose a ballot initiative, the Whitaker and Baxter firm prefers measures to candidates and relies heavily on slogan campaigns. Not active in primary.

**C AND L WINNER AND ASSOCIATES,** 8515 Edwin Drive, Los Angeles 90046; (213) 650-0550.
Husband-and-wife team in business barely a year handles Democrats, including the Southern California campaign of Assembly Speaker Bob Moretti for governor and two Assembly candidates.

**GEORGE YOUNG AND ASSOCIATES,** 1052 W. 6th St., Los Angeles; (213) 482-3515.
Young left Spencer-Roberts to found this firm in 1971. He also runs a school for managers and is training new GOP managers. Current clients include Brian Van Camp for Secretary of State.



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## Volunteer campaigners versus the 'hired guns'

One problem that all of the firms share is having a large percentage of campaigns that end up owing them money both in management fees and for services that management firms have contracted out. "Every year I get stuck somewhere," Joe Cerrell complained. "Last year I got a winner, and he owes me a couple of thousand dollars. Imagine what happens when you're a looser!" The result is that firms tend to screen clients carefully, and often require cash deposits before taking on a campaign and advance payment before placing ads. In addition, one firm — more cautious than the rest — conducts detailed interviews with both a candidate and his or her family to dig out any skeletons that might later emerge to ruin a campaign.

After the firm is chosen and the candidate accepted — whatever that involves — the manager gets the show on the road. That includes a number of services. The firms that are also advertising agencies design and place ads directly in a variety of communications media. Management also includes mapping out campaign strategy, finding possible contributors (but rarely actually raising funds), planning a budget, hiring staff, renting offices and headquarters, forming committees. Events — dinners, coffees, cocktail parties — are scheduled. Attempts to get press coverage, or "free media", might include staging events, such as a gubernatorial candidate walking the unemployment lines or the length or breadth of the district or state. "Paid media" includes running ads on radio and TV and in newspapers, renting billboards, using direct-mail with computer letters and campaign literature, and generating political paraphernalia.

Other items that can be handled by the firms are writing press releases and speeches, arranging endorsements, and doing "scheduling", which means planning where the candidate is to appear and when.

Although the firms maintain that their advice can save clients money, the professional managers tend to create as big and expensive a campaign as the candidate can afford. (Some critics see this as the management firm's major contribution to politics — inflation of campaign costs.) Most managers admit encouraging clients to raise as much money as possible, and few campaigns report surpluses.

### Success without the pros

Are professional management firms worth what they cost? To candidates who have used them — and won — they are. But there are competently run campaigns that do not use them. One is Democrat Cathy O'Neill's campaign for secretary of state this year, built on the base of her almost-successful bid for a Los Angeles County state Senate seat in 1972. While she lost to Republican Senator Robert Stevens of Santa Monica, her totally inexperienced, volunteer organization was able to enlist grassroots support that she revived for the current campaign. O'Neill's campaign staff is again young, generally inexperienced, and mostly unpaid.

"In many cases," O'Neill conceded, "management firms do a perfectly marvelous job . . . . I also know their staff are often people who have worked in just one campaign; they then become 'expert'. . . . I'm a great believer in professionalism. But I think there are two ways you can get it. There are a great number of talented people who are not presently associated with political management firms. You may really respect the judgment of the head of the agency, but they have to be torn; the nature of their business calls for them to divide their time. Whereas, if you pull together your own staff, and they read an item in the news, they think of how it relates to the one campaign they're focusing on."

### Some critics

Not everyone admires the management firms. Janet Adams is a professional campaign-manager who has often donated her services on behalf of environmental causes (notably the successful coastline initiative of 1972). She has run candidates and initiatives against highly paid professional management firms, which she calls "hired guns" available to anyone who can afford them. "No, I don't think it's worth it at all," she said. "The firms are charging very, very high fees for things that are easily available to almost anyone now. They put in these high fees for their computer services. Any number of volunteers would be perfectly enchanted to be able to go as far as the county office and pull out some names because it's easy to pull out anything — you can do it by area, by district, by vote. You know how many people in an area voted a certain way, and you can figure out if it's worth it to send a mailing into the area . . . . There's no magic to it — it's just plain old common-sense logic."

She conceded that the management firms are "more geared up to it than an amateur — there's no question about it. A lot of candidates fail and go under because the candidate just doesn't know what he is doing. There are just not enough good campaign managers. It's a wide-open field for someone of talent."

Nelson Rising is an attorney and land-developer who helped manage campaigns for U.S. Senator John Tunney and Mayor Tom Bradley. To him, campaigning is a hobby, and he charges no fee for his advice. He is critical of management firms because he feels that few of them really understand what he calls the "nuances" of campaigning. "It's the fine tuning that wins or loses elections," he said. He might use a management firm on a consulting basis, he continued, to solve a specific campaign problem, but added: "There isn't any one firm in the state that has a supermarket — that has all the skills needed." To Rising, a candidate who is unable to put together a campaign staff shouldn't run.

But it is the newcomer — the challenger to incumbents — who is most likely to use management firms. Sandy Weiner explained that management firms like his "have the greatest effect if you have a new candidate, people who have never done anything like this before . . . . One of our greatest services is showing a candidate how to spend his money. So much political money is wasted because they don't know where to spend it or how to spend it wisely. I think our greatest effect is with the newcomer . . . . We are the least effective when we are called upon to reelect an incumbent — an incumbent who has very basic political habits, a staff of his own . . . . We're helpful, but probably it's a waste of money."

Even their most bitter detractors admit that few can match professional management firms in getting a campaign set up and operating quickly. In a business that has only a few months to succeed, time may be the most important single factor. It is probably their ability to get things rolling that permits the firms to collect high fees in election years — and coast through off-years. It doesn't matter whether they keep campaign costs up or offer a bargain to hard-pressed candidates whose real goal is not economy but victory. For that reason, at least, the professional managers have become a fixture in California politics.


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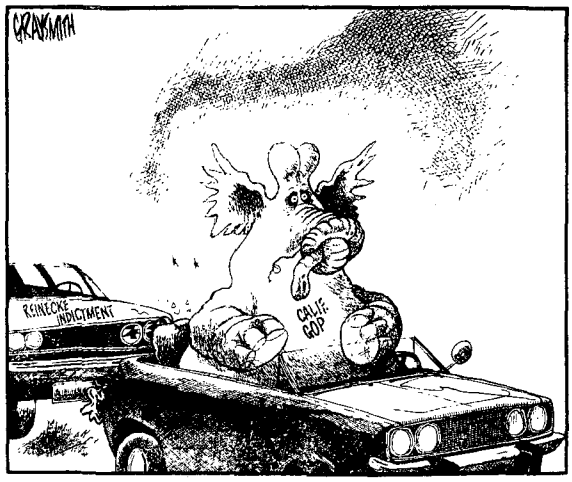
# The attempted comeback of the GOP progressives

By Ed Salzman

Although the overriding short-term factor in this year's state primary election is the indictment of Lieutenant Governor Ed Reinecke on federal perjury charges, future historians may be more interested in the attempted 1974 revival of the progressive wing of the Republican Party in California. But for Reinecke's difficulties, Republican voters would have a clear-cut choice June 4th between the Lieutenant Governor, carrying the banner of the conservative wing, and state Controller Houston I. Flourny, who fits the progressive mold of Hiram Johnson, Earl Warren and Thomas Kuchel. Reinecke can hardly be counted out of the race, despite the indictment [see box] and despite the defection of traditional conservative contributors to Flournoy, who has locked up amost every big name in the Grand Old Party.

Even before Reinecke was charged by the grand jury in Washington, he was finding it impossible to organize a high-powered campaign. The conservative businessmen close to Governor Ronald Reagan, who had picked Reinecke for the lieutenant governorship, fled to Flournoy as the only candidate who could avert a GOP disaster in November. Most Republican candidates for other state offices (excepting only the most die-hard conservatives) say privately that they dread running on a ticket headed by Reinecke for fear that he would be easy pickings for the Democrats in November.

Nevertheless, Reinecke can hardly be counted out. He has a tremendous reservoir of strength among grassroots




Graysmith, San Francisco Chronicle

TRUNKLASH

Houston Flournoy

precinct workers, has won the endorsement of the California Republican Assembly, and is the favorite of other conservative political organizations. Many GOP workers feel that he is somehow being victimized by a plot hatched by such Democrats as U.S. Senator John Tunney and liberal Republicans. This feeling makes them all the more willing to go out and work for Reinecke — to vindicate him at the polls although they are powerless to help him in court.

Flournoy has working for him the obvious question that must nag every Republican, even the most ardent Reinecke supporter, as he or she walks into the voting booth on June 4th: What will happen to the Republican slate if Reinecke wins the nomination and is subsequently found guilty of perjury? Reinecke, who answered the charges with a plea of "absolutely not guilty", has an answer: The American system of justice requires that he be adjudged innocent until proven otherwise, and it would not be proper, therefore, to vote against him out of fear of a conviction. (It is possible, however, that a verdict will be handed down before the election.)

## Progressive dynasty

While it is impossible to overlook the Reinecke indictment in any analysis of the gubernatorial primary, the Lieutenant Governor is, after all, just a passing figure in the political scene. But every history of California politics is keyed to the rise of the Progressive Republican dynasty started by Hiram Johnson and later led by such men as Warren, Goodwin J. Knight and Kuchel. These men were supported by members of both major political parties, primarily during an era of cross-filing, and they kept the Republican Party dominant through several decades.

The dynasty collapsed in 1958, when conservative William Knowland gave up his U.S. Senate seat to run for



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## Reinecke and his fateful testimony

When did Lieutenant Governor Ed Reinecke talk with former U.S. Attorney General John Mitchell about the ITT affair? And when Reinecke was testifying before the Senate Judiciary Committee, were senators asking him about face-to-face meetings with Mitchell, telephone conversations, or both? These two questions hold the key to understanding Reinecke's indictment on three counts of perjury last month by a grand jury in Washington, D.C.

Behind the perjury issue lies the allegation that ITT obtained a favorable anti-trust settlement from the Justice Department on July 31, 1971, after having pledged $400,000 to help Republicans pay for the GOP national convention, then scheduled for San Diego. The grand jury accused Reinecke of lying to the Judiciary Committee in 1972 when he testified under oath that he had not discussed the ITT offer with Mitchell until September 17, 1971. The Lieutenant

Ed Reinecke

Governor subsequently acknowledged that he had discussed the matter with Mitchell several months earlier (before the anti-trust settlement was made). Reinecke said that these conversations were over the telephone and that he assumed that the committee members — notably Senator Hiram Fong, a Hawaii Republican — were asking him only about meetings in Washington.

These are the pivotal exchanges on which the indictment is based:

*Fong* — So the only time you discussed the convention with Mr. Mitchell was in September after the ITT case had already been settled?

*Reinecke* — That is correct, senator.

*Fong* — Lieutenant Governor, so far as you know, nothing transpired . . . prior to September 17, 1971?

*Reinecke* — That is correct, sir.

*Fong* — Until after the ITT case had been completed?

*Reinecke* — Pertaining to the convention, that is right.

*Fong* — Prior to the settlement of the ITT case, no conversation was had by . . . you to anyone on the Justice Department that the ITT people had promised to do certain things in San Diego.

*Reinecke* — That is quite true.

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governor and led almost the entire GOP ticket down to defeat. Only Kuchel was left holding a major office, and he was eliminated six years ago in the Republican primary by the conservative superintendent of public instruction, Max Rafferty. (Democrat Alan Cranston defeated Rafferty in the general election.) When the Republicans regained power in 1966, the progressive element was a shambles. The GOP was now run by the conservatives headed by Reagan, although Flournoy and a quasi-progressive, Robert Finch, were elected on the same ticket. Finch, who resigned as lieutenant governor to join the Nixon administration two years later, has attempted over the years to keep himself in the good graces of all elements of the party. Flournoy, who had been outspokenly anti-conservative early in his career, still remains clearly identified as a progressive.

### Harmer vs. Veneman

The Flournoy versus Reinecke choice is only one of several decisions GOP voters will make this year between conservatives and members of the Johnson-Warren political family. The choice for lieutenant governor is clear: State Senator John Harmer of Glendale is probably more conservative than Reagan or Reinecke. His opponent, former Assemblyman John G. Veneman of San Francisco, was one of the progressive "Young Turks" who in 1965 ousted conservatives from control of the GOP minority in the Assembly. As an assemblyman and later as undersecretary of health, education and welfare (under Finch and Elliot Richardson), Veneman espoused legislation that has generally been opposed by conservatives.

Another "Young Turk", Assemblyman William T. Bagley of San Rafael, is running for controller. Bagley has diffused his liberal image considerably by acting as floor manager for some of the most important programs of the Reagan administration, especially in the field of taxation. His more conservative opponents are James L. Flournoy, unsuccessful GOP nominee for secretary of state four years ago, and Marian W. La Follette of Encino, a Los Angeles Community College District trustee. Flournoy has going for him his last name — the same as the incumbent controller. La Follette's biggest asset is her sex in an era in which women are attempting to assert their political independence.

In the race for state treasurer, the leading candidate is John Kehoe, who served as director of consumer affairs in the Reagan administration. While Kehoe is fortunate not to have a progressive or conservative label, he served not too many years ago as assistant to a Democratic congressman, George P. Miller of Alameda County.

### Trio of conservatives

The Republican contest for the right to face Cranston does not include anyone with progressive credentials. There are three conservatives, state Senator H. L. Richardson, former state Director of Veterans Affairs Johnny Johnson of Orange County, and Tom Malatesta, a Los Angeles businessman, plus Earl Brian, the young physician who served as Reagan's health and welfare secretary. Brian can hardly be called a liberal or a progressive, but he has shown an ability to work closely with people like Bagley and Democratic leaders in the Legislature.

City Councilman Mike Montgomery of South Pasadena has worked hard to promote himself as the most conservative among the candidates for secretary of state. His prime opponent is Brian Van Camp, who served as corporations commissioner under Reagan. Van Camp is not anxious to take on a label but he places himself to the left of Montgomery and concedes that he has built an organization based primarily on friendships (including perhaps a majority of Democrats) and not on political philosophy. Like Kehoe, he would fit on a ticket of progressives.

Former Assembly Speaker Bob Monagan, who came close to running for state treasurer after incumbent Ivy Baker Priest withdrew, said that one of the main reasons


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he looked forward to the race was the opportunity to run on the same slate with such Young Turk buddies as Flournoy, Veneman and Bagley. He said he did not run because it was not a good calculated risk — which means that the road to victory appeared paved with too many obstacles.

### GOP barometer

While the Reinecke-Flournoy race has been complicated to the extent that it will not be a good test of the philosophical mood of Republican voters, the entire statewide ballot could provide such a barometer. If the GOP were to nominate a slate consisting of Hugh Flournoy, Veneman, Bagley, Kehoe, Brian, Van Camp and incumbent Attorney General Evelle Younger, it would clearly signal the return of the progressives to control of the party. On the other hand, selection of a slate composed of candidates like Reinecke, Harmer, Richardson, Montgomery and La Follette or James Flournoy would demonstrate that the GOP voter is satisfied with the move to the right begun in 1958. Such a clean decision is unlikely to be made by the voters because campaigning ability and the personality of the candidates will play roles as important as political philosophy.

A mixed slate is probable, but even that would give the progressives a bigger piece of the action than they have had during the Reagan years.

### Democratic campaigns

With the primary campaign heading into its final month, the Democratic race for the gubernatorial nomination has not changed from its start. Everyone still is chasing the front-runner, Secretary of State Edmund G. Brown Jr., some more aggressively than others. Assembly Speaker Bob Moretti counted all the candidates out except himself and Brown. And Moretti was counting on heavy support from public employees and minorities to bring him into close contention. The Speaker even went to court in an effort to embarrass Brown. At issue was the proposition pamphlet that will be distributed to all registered voters by the secretary of state. Moretti took offense at a one-page letter inserted in the pamphlet and signed by Brown describing the new format for the booklet. Moretti claimed the "love letter" was illegal and constituted, in effect, a free political promotion for Brown. The court rejected this contention.

Back in the pack, the heaviest blows of the campaign were being struck by Supervisor Baxter Ward of Los Angeles, but the unorthodox former television newscaster made Mayor Joseph Alioto of San Francisco his top target. Ward evidently figured that the Mayor was his prime competition for the votes of non-liberal members of the Democratic party. Some politicians, Moretti among them, claim that Alioto's campaign has been fatally wounded by the publicity surrounding his wife's 17-day disappearance, the strike by San Francisco public employees and the loss of key men in his organization.

Aside from Ward, the only big splash was being made by William Matson Roth, the University of California regent who is spending a potful of his own money to reach the public through a flood of media messages. The polls show that he has come about even with Congressman Jerome Waldie (who has suffered from a lack of funds but has managed to get a respectable press showing as a member of the committee studying possible impeachment of President Nixon) but has not made nearly enough progress to put Roth up with the leaders.

### Other races

Most experts agree that, save for the governorship,

Jerry Brown

Bob Moretti

most voters don't decide how they will vote in the primary until the last two or three weeks of a campaign. But here are the early indications in the other Democratic races:

*Lieutenant Governor.* State Senator Mervyn Dymally of Los Angeles is the front-runner because he has been campaigning the longest and the hardest. John Merlo of Chico, long-time party leader, is attempting to sell himself as the northern candidate in the hope that the southern vote will divide sufficiently among the remaining seven candidates to get him the nomination.

*Secretary of State.* Assemblyman Walter Karabian of Los Angeles is the prime target because he has more money than any of the other candidates. But the two women in the race, Assemblywoman March Fong of Oakland and Cathy O'Neill, have a not-so-friendly rivalry of their own. And Herman Sillas, a Chicano leader, also cannot be counted out. This could be a close four-way race.

*Controller.* Supervisor Robert Mendelsohn of San Francisco had a head start on the field, but Assemblyman Ken Cory of Orange County is expected to be a fast finisher.

*Treasurer.* Former Assembly Speaker Jess Unruh apparently thinks that he can have the nomination for the asking, but Gray Davis, a political associate of Los Angeles Mayor Tom Bradley, may give him a tight fight.

*Attorney General.* This is the race that belongs in the Republican primary because it offers a contrast in philosophy between the liberal William Norris and the more conservative Vincent Bugliosi.

### '11th commandment'

In general, the Democratic campaigns are much rougher affairs than the Republican contests. This is because the GOP has its so-called 11th Commandment ("Thou shalt not speak ill of any Republican"), and the Democrats have a tradition of internecine warfare. But there is another factor this year: The realization among quite a few Republican candidates that this is apt to be a Democratic year and that the GOP nomination isn't nearly the prize it would have been four or eight years ago. H. L. Richardson, for example, advises any gamblers in his audience to bet on his potential opponent, Alan Cranston, to win another six-year term. Democrats also sense that they may be about to return to power in California, and thus the competition for places on the ticket has become all the more intense.

Even the return of the once-bitter competition between the conservative and progressive elements of the Republican party has not produced much action in the GOP races. The progressives are not particularly anxious to raise philosophical issues (because of a string of recent failures in head-to-head competition), and the conservatives recognize that the GOP has enough problems, including the Reinecke indictment, without a return to the kind of battling — Rafferty versus Kuchel, for example — that has led to Democratic victories.


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# The persistent advantage of incumbents

Probably as a result of the court-drawn reapportionment, more California congressmen, senators and assemblymen face primary opposition this year than in any recent election. Of the 119 incumbents seeking reelection this year, 55 of them (or 46 percent) are not running alone for their party nominations. This includes 23 of 37 congressmen, five of 16 senators and 27 of 66 assemblymen. These figures are distorted somewhat because there is one race, in the 41st Assembly District, pitting two incumbent Republican assemblymen, Mike Antonovich and Newton Russell, against one another.

The figure of 46 percent is significantly higher than in any other election going back at least as far as 1960. Since that year, the most incumbents — 37 percent — were challenged in the primary of 1962, which also was the first election following a redistricting. The average number of incumbents challenged during the seven primaries between 1960 and 1972 was just under 30 percent.

An analysis of these seven elections shows clearly that Californians are not in the habit of rejecting incumbents through the primary process. Except for cases where redistricting forced incumbents to face each other, only nine congressmen and legislators lost their jobs in these seven primaries. Other findings:

- Not a single Republican state legislator was removed by primary vote during that time. And only one GOP congressman, John G. Schmitz of Orange County two years ago, lost in a primary.
- Invariably, those incumbents who are defeated come from districts that are safe for one party or the other, making victory in the primary tantamount to election.
- Challenges are usually most likely to succeed when the incumbent's age or race is an issue or where the incumbent has received adverse publicity. In three instances, black Democrats unseated white assemblymen.

### By the numbers

Here is a year-by-year breakdown of the number of congressmen and legislators challenged and the incumbents defeated:

*1960* — 21 of 118 challenged (18%). Senator J. William Beard of Imperial County lost to Aaron W. Quick.

*1962* — 35 of 95 challenged (37%). Assemblyman Vernon Kilpatrick of Los Angeles was defeated by F. Douglas Ferrell.

*1964* — 37 of 129 challenged (29%). Assemblyman Edward Gaffney of San Francisco was defeated by Willie L. Brown Jr.; Assemblyman John Moreno of Santa Fe Springs was defeated by Jack Fenton.

*1966* — 31 of 88 challenged (35%). No incumbents were defeated. (State Senate races are excluded because a U.S. Supreme Court reapportionment decision forced many senators out of office and created several unusual races.)

*1968* — 43 of 134 challenged (32%). Assemblyman Lester McMillan of Los Angeles lost to Henry Waxman.

*1970* — 29 of 125 challenged (23%). Congressman Jeffery Cohelan of Berkeley lost to Ronald Dellums.

*1972* — 42 of 124 challenged (34%). John Schmitz was defeated by Andrew Hinshaw; Congressman George P. Miller of Oakland was defeated by Fortney Stark; and Assemblyman David Pierson of Inglewood was defeated by Frank Holoman.

### June outlook

What's the outlook for the June 4th primary? The congressional primaries, if anything, look milder than normal, despite redistricting. The Senate has the usual couple of interesting contests, but the Assembly is loaded with potential trouble for incumbents. As usual, liberal Republican Congressman Paul N. McCloskey of Menlo Park faces well-financed opposition from a conservative businessman, Gordon Knapp of Atherton. Democrat George Danielson of Monterey Park faces his traditional Mexican-American challenge, but he is not considered to be in danger. Republican Victor Veysey was forced to move north from Imperial County to Claremont in Los Angeles County because of redistricting, but is not facing a stiff primary fight.

Only two state senators look like possible primary election losers — Republican Peter Behr of Tiberon, who faces conservative opposition from Supervisor Bob Theiller of Sonoma County, and Democrat Ralph Dills, who has two opponents who cannot be taken lightly, Robert Pauley and Ross Miller Jr. Buzz Pauley, son of oilman Ed Pauley, is running an aggressive campaign. Miller is a Compton councilman.

### Assembly breakdown

In addition to the Antonovich-Russell contest, here is a rundown of other endangered assemblymen:

*District 4* — Incumbent Democrat Ed Z'berg of Sacramento, vulnerable from a drunk-driving conviction and subsequent brief jail term, could be beaten by the aggressive campaign of attorney Joseph Genshlea.

*District 5* — Incumbent Democrat Walter Powers of Sacramento was stung when the important labor endorsement went to his prime opponent, Supervisor Eugene Gualco of Sacramento.

*District 7* — Freshman Republican Doug Carter, running in some new territory, has attracted five primary opponents. His district includes the Gold Rush country east of Sacramento, where residents look their candidates over closely.

*District 16* — Democrat John Foran of San Francisco faces a challenge from a Catholic priest, Eugene Boyle, and the race could be close.

*District 27* — Freshman Democrat John Thurman of Modesto is up against the man he replaced in the Assembly, Ernest LaCoste (who ran unsuccessfully for the state Senate two years ago).

*District 61* — Veteran Republican John L. E. Collier of Monrovia faces a tough opponent, Don Decker of San Gabriel.

*District 66* — Health problems and adverse publicity have endangered Democrat John Quimby of San Bernardino, and he is under attack from Terry Goggin, aide to Congressman George Brown, Councilman Norris P. Gregory of San Bernardino, and Mike Valles, once Quimby's aide.

*District 70* — His current district shredded by redistricting, conservative Republican Floyd Wakefield moved from Los Angeles County to Orange County to keep his career alive. He has four opponents, including Bruce Nestande, who has plowed the territory in previous campaigns against Democrat Ken Cory.



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# California NEWSBRIEFS

**State taxes Nixon on 1969-72 earnings but sees no fraud**

President Nixon has been billed for more than $5,000 in California income taxes for the years 1969-72. The actual tax owed, according to the state Franchise Tax Board, was $4,263, but interest on that sum, calculated at a rate of six percent a year plus a penalty fee for failure to file a 1970 return are estimated to add about $1,100 to that figure. The President's representative, Dean butler of Los Angeles, said the sum would be paid promptly.

Nixon's allowable deductions were sufficient to wipe out the President's state tax obligation for 1971 and 1972, the board reported, but there was $55,533 in taxable income in 1969. The tax on that sum was $4,107, and Nixon paid $156. Many of the deductions were for interest paid on the President's debts — $92,955, for example, on his San Clemente property in 1970.

The executive officer of the state board, Martin Huff, said the President's failure to file in 1970 "is not necessarily a criminal matter if he didn't believe he had a requirement to file . . . . There has to be some evidence or indication of wilfullness, and all the evidence was the other way around."

**Odd-even gas sales end as last of nine counties lift limit**

When Los Angeles and Ventura counties decided April 17th to let motorists buy gasoline on any day regardless of their vehicles' license number — if they could find the fuel — the so-called odd-even sales plan came to an end in California. Nine counties had opted for the limitation on sales as a way of curbing what Governor Reagan called panic buying of fuel. The others, which had earlier quit the system, were Orange, Riverside, Santa Clara, San Mateo, Solano, Alameda and Contra Costa counties.

**Consumer group backs initiative to have PUC watch oil companies**

The California Consumer Federation, which claims to represent some 200 consumer and labor groups, has endorsed Senator James Mills' initiative to put certain retail gasoline sales under the regulation of the state Public Utilities Commission. The measure aims at limiting the amount of gasoline that can be sold through service stations owned by the oil companies. This would enhance the competitive position of the independent dealers who buy their stocks from the major oil firms, the proponents say. Some independents, forced out of business by dried up supplies, have charged the companies' with trying to eliminate non-company outlets.

To make the November ballot, 325,504 signatures of registered voters must be compiled by the end of May; if that deadline is missed, however, proponents will have until July 19th to qualify the initiative for the next statewide election, most likely in 1976.

**Governor's appointees complete new advisory Commission on Aging**

Governor Reagan announced his nine appointments to the new 15-member California Commission on Aging April 4th — three months after the panel was to have begun operation and less than a week after having been criticized for the delay. The commission was created by the 1973 Legislature to advise the Reagan administration and the state Office on Aging, which proposes state policies and programs for the elderly. Its other six members are selected half by Assembly Speaker Bob Moretti and half by the Senate Rules Committee. The commission was to have begun work January 1st.

"It disturbs me no end that the Reagan administration has delayed making these appointments," said James Carbray, vice president of the National Council of Senior Citizens and one of Moretti's appointees. "For three months, we haven't been able to take action which could benefit the two million elderly people in California." When he made his criticism March 28th, Carbray also charged the administration with developing policies affecting the elderly without benefit of the commission's advice. "It seems to me we have the cart before the horse," he said. (A Reagan aide responded at the time that the Governor was awaiting recommendations from "officials concerned with the problems of the aged.")

The appointees: *Speaker Moretti:* James Carbray, Whittier; Samuel Kolb, Los Angeles; Isabel Van Frank, Berkeley. *Senate Rules:* Wallace Enrich, Fresno; Mishel Piastro, Spring Valley; Cora Cocks, Long Beach. *Governor Reagan:* Carroll L. Estes, San Francisco; Eleanor Fait, El Dorado Hills; William C. McColl, Sun City; Wayne A. Neal, Palm Springs; Roger S. Watson, Huntington Beach; Paul Cowgill, San Bruno; Ruth Green, San Diego; Archer Kirkpatrick, Corning; Charles H. Lavis, Berkeley.

**State Supreme Court says federal council can't block pay raise**

State workers won a major victory last month, when the California Supreme Court ruled that the federal Cost of Living Council lacked authority to block salary increases granted by the Legislature. The U.S. government could seek a federal court injunction to block the state's payment of the higher wage back to last July 1st — a cost estimated at $83.4 million.

Under the 1973-74 budget, employees were allocated an average salary increase of 11.5 percent. The Cost of Living Council trimmed this back to 7 percent based upon federal anti-inflation guidelines. State employees challenged the ruling in seeking to recover the additional 4.5 percent.

The California Court, in a 4-3 opinion written by Justice William P. Clark and concurred in by Justices Louis H. Burke and Marshall F. McComb, held that Congress had not intended, in its authorizing legislation, that the council regulate internal affairs of the states. A separate concurring opinion was written by Justice Stanley Mosk. Chief Justice Donald R. Wright and Justice Raymond L. Sullivan signed one dissenting opinion, and Justice Mathew Tobriner authored another.


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JUNE 1974 PRIMARY

# The California Journal's ballot proposition analysis

*The California electorate will decide on June 4th the fate of nine ballot propositions – three proposed bond issues, five constitutional amendments put before the voters by the Legislature, and the so-called political-reform initiative sponsored by Common Cause, the People's Lobby and Secretary of State Edmund G. Brown Jr. This* California Journal Special Report *contains a description and analysis of each measure, with special emphasis on the two most complex and controversial proposals, Proposition 5 (authorizing use of motorist taxes for rapid transit) and Proposition 9 (the political-reform initiative). A majority vote is sufficient to enact any of the propositions.*

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Write: California Journal Proposition Booklet, 1617 10th St., Sacramento 95814.

## 1 STATE BEACH, PARK, RECREATIONAL AND HISTORICAL BOND ACT.

This measure provides for a $250 million bond issue for acquisition and development of recreational lands by both state and local governments.

This latest in a series of proposals by the Legislature provides funds through the sale of general-obligation bonds to expand the state park system and help cities and counties enlarge their recreational facilities. Voters have approved similar bond issues totaling $210 million in the last 10 years. If the measure is approved, the $250 million will be appropriated in these categories:

- Grants to cities and counties, $90 million.
- Add to the state park system, $90 million.
- Develop state parks to accommodate more activities, $45 million.
- Develop historical facilities for the park system, $15 million.
- Purchase or develop wildlife-management property, $10 million.

The legislative analyst estimates that the interest cost on the bonds, assuming that they are retired over 20 years at five percent interest, would be $131 million. Local government would be required to spend an unknown amount of money to administer its share of the fund, but probably would save more because it would obtain state funds for park property that otherwise might have to be raised locally.

### For and against

The bond proposal was pushed through the Legislature by Assemblyman Edwin L. Z'berg of Sacramento and Senator Randolph Collier of Siskiyou County. Governor Ronald Reagan is supporting the proposition, and he appointed L. W. (Bill) Lane, publisher of *Sunset Magazine*, as chairman of the committee running the campaign in favor of the measure. The supporters emphasize that the use of state recreational facilities is growing at a far more rapid rate than the population and that state parks were forced last year to turn away one million people. It is imperative, they say, that needed sites be purchased immediately because costs are skyrocketing and some important properties earmarked for purchase — especially along the coastline — are in danger of development.

Arguments against this measure — and against Propositions 2 and 3 as well — were submitted by the Association of Concerned Taxpayers of San Diego. This organiza-

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## California's bonded debt

*This is a summary of California's bonded debt at the start of 1974:*

| | |
|---|---|
| Various construction bonds (higher education, parks, clean water, etc.) | $1.246 billion |
| State school buildings bonds | 1.178 billion |
| Water project bonds | 1.549 billion |
| Harbor bonds | 50 million |
| Veterans farm and home building bonds | 1.220 billion |
| TOTAL | 5.243 billion |

In addition, California voters had authorized $1.1 billion worth of bonds which had not yet been sold.

tion claims that many parks are not now used to capacity, that counties now own much land that is not being made available for recreational use and that many older Californians are afraid to visit parks for fear of being victimized by criminals. The association opponents maintain that property taxes would be lower if more land, not less, were in private hands, and that future citizens would get hit with higher taxes because of the bond commitment.

### Policy question

Every time the voters are faced with a bond issue to provide public facilities a key policy question is raised: Should the funds be raised through long-term debt or current taxes? The Legislature attempted a decade ago to phase out use of bonds and to rely on current income. This effort has proved only partially successful. The state has increased significantly its pay-as-you-go program for capital improvements, but it has not been able to raise nearly enough cash to eliminate use of bond issues.

## 2 CLEAN WATER BOND ACT.

This measure provides for a $250 million bond issue to provide funds for water-pollution-control projects.

In 1970, California voters approved a $250 million bond issue administered by the state Water Resources Control Board to help local governments meet clean-water standards set by the federal and state governments. The last of those funds will be committed next year, and this new $250 million general-obligation bond proposal is designed to keep the program going beyond 1975. Proceeds would be used for three basic purposes:

- To help local governments match grants from the federal government for sewage, liquid-waste, water-treatment-and-reclamation facilities.
- For clean-water planning, research and development.
- For loans to public agencies where needed to prevent pollution.

Under current federal law, local agencies receive 75 percent of the cost of projects from the federal government. It has been the practice of the Water Resources Control Board to pay an additional 12½ percent, leaving local government with a requirement to match only 12½ percent of the total cost. State fiscal experts estimate that, if the bonds are repaid over 20 years, the interest cost at 5 percent will total $131 million.

### For and against

The proposition has the backing of virtually every major political, labor, business, government and conservation organization in the state. The proponents claim that the clean-water program thus far has been successful in eliminating pollution and that $250 million will help bring California $1.5 billion in federal grants. Without state aid, the supporters argue, local government would be forced to place a heavy burden on local taxpayers to meet the state's pollution standards.

The opposition argument in the official ballot pamphlet, written by the Association of Concerned Taxpayers of San Diego, concedes that water reclamation is a good idea. But the organization argues that passage of the proposition will result in higher rents and property taxes, a charge that is emphatically denied by sponsors of the measure.

## 3 VETERANS BOND ACT.

This measure provides for a $350 million bond issue to continue California's farm-and-home-loan program for veterans.

Over the years, Californians have repeatedly approved bond issues of varying amounts to continue and expand the state's program of making low-interest loans available to veterans seeking to purchase homes and farms. This bond proposal would provide funds to keep the program going. Although Cal-Vet bonds are technically general obligations of all Californians, they have always been repaid exclusively from mortgage payments collected from veterans.

The Legislature placed this proposition on the ballot so that thousands of Vietnam veterans who have applied for funds this year can be added to the 285,000 vets who have previously taken advantage of the low-interest loans. Assemblyman Ernest Mobley of Fresno County, a prime sponsor of the measure, maintains that the additional bond issue is necessary to guarantee Vietnam veterans the same treatment as veterans of previous wars.

The ballot-pamphlet argument against the measure, written by the Association of Concerned Taxpayers of San Diego, claims that funds are not available to veterans be-


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cause dollars are being chewed up through bureaucratic management of the program.

In rebuttal, Mobley emphasized that the law specifically prevents diversion of Cal-Vet funds to any other purpose than loans and the repayment of bonds. However, in previous elections there have been other questions raised about the program, such as: Should the state provide veterans' benefits when the national defense is a responsibility of the federal government? And also: With the rise in interest rates for the general public, should veterans be given loans with significantly lower rates, often four percent below the mortgage market?

## REASSESSMENT OF PROPERTY.

This proposed constitutional amendment gives the Legislature the power to authorize tax relief in cases where property is destroyed by misfortune or calamity after the annual lien date.

Under current law, property is generally assessed according to its value on March 1st. However, local governments may provide for a downward reassessment after that date if the property is damaged by a "major" calamity and if the governor proclaims the area to be in a state of disaster. If Proposition 4 is passed, the Legislature will be able to allow local government to provide property-tax relief to Californians whose property is damaged by a calamity, whether major or not and whether within an official disaster area or not. State fiscal specialists say that passage would have no state effect but that local government would encounter loss in revenue.

### For and against

Assemblyman Lawrence Kapiloff of San Diego, sponsor of the proposal, contends that it is unfair to grant relief to those citizens who are in a general disaster area while denying it to an individual suffering just as great a loss outside one. Present law requires a Californian to pay a full year's taxes on a home even if it were destroyed by fire on March 2nd, the day after assessment, Kapiloff emphasized.

Assemblyman Ernest Mobley of Fresno County opposed the measure on the ground that it would cause several administrative problems for local government (as well as the loss in revenue). Local agencies, he argued, must decide what constitutes a disaster, and no provisions have been made for reassessment of property once repairs are done. Mobley also argued that an individual receives the benefits of municipal services, such as schools and police protection, even after his property is destroyed.

## HIGHWAY AND MASS-TRANSIT FUNDING.

This constitutional amendment would authorize the use of gasoline tax funds for mass transit purposes.

Under a constitutional provision adopted 36 years ago, the proceeds of highway-user taxes (gasoline, diesel, vehicle registration and weight fees) may be spent only for highway construction, maintenance and administration, and law enforcement. This measure would authorize use of this revenue for research, planning, construction, improvement and maintenance of public mass-transit facilities. In order for funds to be appropriated for a transit construction project (but not for research planning), prior approval must be obtained from the voters in a county or project area. The Legislature also could permit these funds to be used for retirement of voter-approved transit bonds.

A similar proposal authorizing diversion of so-called gas-tax funds to mass-transit purposes was on the ballot in November 1970, as Proposition 18. It was defeated by about 4''5,000 votes. Senator James R. Mills of San Diego, author of both propositions, claims that his current plan has less opposition than had the 1970 measure.

Legislation by Mills approved by the Legislature last year to implement Proposition 5 limits the highway-fund diversion for mass-transit purposes to the following percentages: 1974-75, 5%; 1975-76, 10%; 1976-77, 15%; 1977-78, 20%; 1978-79, and each year thereafter, 25%. The state director of transportation would be authorized to increase these percentages to the following maximums if necessary to receive federal assistance: 1974-75, 15%; 1975-76, 20%; 1976-77, 25%. After that, the director could impose whatever percentage was necessary to maximize federal participation.

### Central question

Although many issues are raised by proponents and opponents of this proposition, one central question faces the electorate: Is it proper to use funds raised from motor-vehicle owners and operators to help develop another form of transportation? In the past, the so-called highway establishment maintained a solid front against any incursion into highway-user taxes. That front broke down with initiation of a sales tax on motor-vehicle fuels two years ago, and some elements of the former highway establishment support this measure.

Mills has obtained the backing of the state Transportation Board and the Los Angeles Chamber of Commerce, as well as the League of Women Voters and the Sierra Club. The Senator, who is the Legislature's biggest rapid-transit and bicycle enthusiast, makes this basic argument for his measure:

While the tax limitation may have made sense when the state needed a great highway system, the requirements for the future are significantly different. A flexible, multi-mode transportation system is needed. This pro-



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### Billion-dollar revenue estimate

Although the state Department of Finance figures that the fuel crisis should significantly reduce income from motor-vehicle fuel taxes, the amount of money in the state highway fund should remain slightly over $1 billion during the fiscal year starting July 1st. Here are the department's income estimates for the main taxes affected by Proposition 5:

| Levy | Actual 1972-73 | Estimated 1973-74 | Estimated 1974-75 |
|---|---|---|---|
| Gasoline and diesel (7¢ per gallon) | $746 million | $723 million | $702 million |
| Registration and weight fees ($11 per vehicle and various weight fees) | $290 million | $323 million | $339 million |
| **TOTALS** | **$1.036 billion** | **$1.046 billion** | **$1.041 billion** |

posal gives local voters the chance to say how they want their money spent — for highways or for alternate systems. Urban counties may choose mass transit, while rural areas may opt for more roads. Especially in the urban areas, a new direction in transportation is needed to relieve congestion, prevent increased taxes and halt deterioration of the environment. Most of the money for transit systems will come from the federal government, but California must raise one dollar for every four dollars made available by Washington. Most of California voters hold driver's licenses and pay the 7¢-a-gallon state gasoline tax. This proposal would give these motorists an opportunity to gain control of their own tax money.

#### Opposition argument

The proposition is opposed by the California Chamber of Commerce and by several elements of the highway establishment. In the Legislature, a key opponent is Senator Randolph Collier of Siskiyou County, who is generally considered the "father" of the California freeway system. Collier's argument:

Because the voters put a lock on highway-user taxes in 1938, the state today has a fine freeway system. Diversion of this tax revenue to other purposes, including mass transit, would delay needed improvements in the state's road network, and would add an element of gross unfairness to the tax structure. How many miles a Californian drives to work is not a fair measure of how much he should contribute in taxes to a transit system. Available revenues now are inadequate for highway purposes, and enactment of this measure would lead either to higher taxes or to deterioration of the freeway system.

California motorists are already contributing $180 million a year for mass transit through the sales tax on gasoline. These funds can be used to match federal grants. Rapid transit should be funded by those who will directly benefit from it. Such transportation would take less than five percent of the traffic load, and require billions of dollars and years to build. California's smog and energy problems must be solved before these systems can be built, and alternative solutions such as carpools and buses require good roads.

#### How much diversion

There is no way to determine now how much money would be diverted from the highway fund to mass transit should voters approve Proposition 5. Which counties or districts, for example, will elect to divert funds from roadways to transitways? There is also the issue of matching federal funds. As Washington makes more money available, the mechanism in the proposition authorizes even greater diversion. Under present federal law, it has been estimated, California could capture $90 million a year, requiring a matching state appropriation of $22.5 million. This is equivalent to about three percent of current fuel-tax collections.

The proposition contains another feature designed to allow cities and counties to use their share of the fund for large highway projects. Under this provision, 25 percent of a city or county allocation could be pledged to retirement of voter-approved bonds issued for street-and-road purposes.

The state Department of Finance and the legislative analyst agree that Proposition 5 would have no effect on state or local revenues or costs.

## 6 PUBLIC LEGISLATIVE PROCEEDINGS.

This constitutional amendment would require that proceedings of the Legislature and its committees be open to the public, unless an exception is approved by a two-thirds majority vote in each house.

The Legislature prescribed open meetings for local governments in 1953, for state boards and agencies in 1968 and, with an assist by the voters, for the University of California Board of Regents in 1970. But until last year, the lawmakers resisted administering the same medicine to themselves, though gradually reforming practices that had become increasingly difficult to live with in the face of mounting public criticism. Committee votes, unrecorded until 1972, are now a matter of published record. And this year, for the first time, the public will be able to watch the final negotiations between a Senate-Assembly conference committee reconciling differences on the budget bill. The time was ripe to take the full dose [*CJ*, August 1973, p. 208] — or actually to acknowledge that it had been taken.

The 1973 Legislature approved the Grunsky-Burton Open Meeting Act, which Governor Reagan signed into law October 2nd. The act is the statutory mechanism to carry out the constitutional amendment that is Proposition 6. It specifies that "all meetings of the Assembly and Senate and the committees and subcommittees thereof, and any conference committee on the budget, shall be open and public and all the proceedings shall be conducted openly so that the public may remain informed. . . ." The new act



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also requires "full and timely notice" to be given of these meetings and makes participation at an illegally closed meeting a misdemeanor. However, closed meetings are permitted "to consider the appointment of members to committees or to the chairmanship or vice chairmanship thereof, or to consider the appointment, employment or dismissal of a public officer or employee or to hear complaints or charges brought against such officer or employee, or an elected public official, or to consider matters relating to internal house management, or to consider assignment of bills to committee, or affecting the safety and security of the State Capitol or Members of the Legislature, its staff and employees, or the Members of the Assembly or the Senate from meeting privately in caucus with members of their own political party, or a legislative conference committee, other than on the budget, consisting of members of both houses duly appointed and meeting to consider legislation when the first house refused to concur in amendments of the second house."

### Loopholes

These exceptions were justified by the Legislature on the basis of the need to insure individual privacy (a constitutional right in California) and permit the sort of tough negotiating that is sometimes necessary in the so-called conference committee to reconcile differences in legislation amended in the other chamber before passage. To those who follow legislation, this remains an anachronistic loophole, but one that can be closed through subsequent legislation.

Nonetheless, the measures co-author, Senator Donald Grunsky of Santa Cruz, argues that Proposition 6 itself closes "a huge loophole" in the California Constitution. It now provides, in Article IV, Section 7, that "the proceedings of each house and the committees thereof shall be public except *on occasions that in the opinion of the house require secrecy.*" Without statutory limitation the latitude for interpreting "opinion of the house" proved wide enough to conceal a multitude of sins (and on occasion did).

Proposition 6 replaces the italicized words with more specific procedures to be followed before closing an otherwise public meeting. If adopted, the Constitution would read:

> The proceedings of each house and the committees thereof shall be public except as provided by statute or by concurrent resolution, which such resolution is adopted by a two-thirds vote of the members of each house, provided that if there is a conflict between such a statute and concurrent resolution, the last adopted shall prevail.

"This safeguard means," wrote Grunsky and Senator George Deukmejian in behalf of the proposition in the official *California Voters Pamphlet*, "that in the case of a statute authorizing a reason for a non-public meeting, not only must both the Senate and Assembly approve such a bill, but the Governor must sign it."

Proposition 6 has the support of the California Newspaper Publishers Association, Common Cause, the California Broadcasters Association, and the California Freedom of Information Committee. It has no known opposition and the *Voters Pamphlet* contains no opposing arguments to the Grunsky-Deukmejian statement.

## 7 STATE CIVIL SERVICE EXEMPTIONS.

This constitutional amendment would exempt from civil service the chief administrative officer and five deputy chiefs of the new California Postsecondary Education Commission.

Higher education in California is divided into independent segments, the public elements being the University of California, the California State University and Colleges, and the California Community Colleges. Since 1960, a degree of common planning was attempted through the Coordinating Council for Higher Education, which was created by the Master Plan for Higher Education adopted that same year. For the last two years, a joint legislative committee, under the chairmanship of Assemblyman John Vasconcellos, has reviewed the master plan and found it wanting in at least 56 ways, one of them being an effectual coordinating council. It proposed replacing this council with the California Postsecondary Education Commission, which began work on April 1st.

The fatal flaw of the old council was a lack of political clout, an inability to infringe significantly upon the independence of the segments. It is not clear yet how the new commission will overcome this obstacle (though its membership is drawn from a broader base than was the Coordinating Council's) but Proposition 7 would at least put its staff on the same footing as the staffs of the segments whose planning it is to coordinate. It does so by exempting from civil service the position of chief administrative officer and five deputies. This requires adding one sentence, 13 words long, to the existing list of civil-service-exempt positions now contained in Article XXIV, Section 4, of the California Constitution. (These amount to appointees of the Governor, employees of the Legislature, the courts, public school teachers, and the staffs of UC and CSUC.)

### For and against

In arguing against the proposition, Senator George Deukmejian and Assemblyman John Briggs expressed concern that placing the six positions outside civil service would make them "political appointees" who could draw higher salaries than civil service employees. Assemblymen Vasconcellos and Frank Lanterman and Senator Robert Stevens, in rebutting that assertion, reaffirmed the merit principle of civil service and noted, significantly, that the California State Employees Association is not opposing Proposition 7. "Paying adequate salaries will attract competent persons who will improve the planning and coordination of postsecondary education and save taxpayer dollars," the supporters argued.


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## 8 SACRAMENTO CITY-COUNTY CONSOLIDATION.

This proposed constitutional amendment is designed to allow the City and the County of Sacramento to consolidate without including the remaining Sacramento County cities of Galt, Folsom and Isleton.

Current law requires that to form a city-county government like San Francisco's all cities within the county must be included. In Sacramento, a proposed consolidation plan is scheduled to be placed on the ballot in November, but the citizens of Galt, Isleton and Folsom have asked that they be given the option of being excluded from the plan. This measure would give them that option and would apply to no other county.

Within Sacramento County, there is general support for Proposition 8 because it provides the citizens of each city the right to decide their own destiny. The official argument against the proposition was submitted by Senator Clark L. Bradley of San Jose, who opposes special legislation affecting only Sacramento and feels that only a complete consolidation of all cities within the county is feasible.

## 9 POLITICAL REFORM INITIATIVE.

This measure requires campaign financial reporting and disclosure of assets by public officials; limits campaign expenditures; regulates lobbyists; and provides for a bipartisan Fair Political Practices Commission with power to subpoena and levy fines to enforce the act's provisions.

To the ordinary citizen, Proposition 9 may look like an apple-pie issue. To some who work closely with government, however, various parts of the pie are hard to swallow. The opponents' problem has been how to stand against political reform in a time of national political scandal, a dilemma that for a long while muted opposition to this highly detailed and far-reaching proposal to redraft the ground rules of the political game.

Then, on March 28th, organized labor broke the ice with an editorial in the *California AFL-CIO News* calling Proposition 9 "an anti-labor measure". The publication followed up on April 5th by declaring that candidates endorsing the measure would jeopardize any chance of winning labor's backing. In taking this position, labor's chief lobbyist in California, John F. Henning, put the AFL-CIO at odds with a number of major Democratic candidates and also provided protective cover for the natural opponents of any meaningful political reform — the interests that operate most effectively without public recognition. (The AFL-CIO subsequently endorsed four Democratic gubernatorial hopefuls, despite their advocacy of Proposition 9, and one of these Congressman Jerome Waldie, flatly declared that Henning's analysis of the measure was wrong.)

The initiative was begun by the Los Angeles-based People's Lobby and the California branch of the national Common Cause — both so-called public-interest lobbies — and Secretary of State Edmund G. Brown Jr., who made campaign-reform the keynote of his four years in office. Its apple-pie aspect is suggested by the proponents who drafted the ballot argument in favor of their work, when they wrote:

> It is time the people of California put an end to corruption in politics. It is time politicians are made directly responsible to the people — not to purchased demands of special interests. It is time to open wide the doors of the state Capitol, of county boards, and of city halls so that we may all look inside. It is time for political reforms which can only be accomplished by Proposition 9.

The last sentence alludes to the reason why the measure reached the ballot by the initiative route. Its provisions originally were proposed in a package of bills introduced into the Legislature in the early months of the 1973 session. While various parts of the package did win passage — after the Legislature showed a resurgence of interest last summer in the face of the threatened initiative — it was not enough to head off People's Lobby and Common Cause, which launched their joint signature-searching campaign shortly after the Legislature adjourned in September.

What particularly sparked the decision to bypass the Legislature, according to Common Cause [see "Legislators are prodded to act, but not enough to head off reformers," *CJ*, November 1973, pp. 373-6], was failure to enact the proposal — AB 1218 (Meade) — to regulate lobbying activities.

The lobbyist-control section is the ingredient in the pie that's hardest for the opponents to swallow. This is partly because it requires lobbyists to register with and report spending to the secretary of state instead of, as at present, a joint committee of the Legislature. It also requires listing the names of persons entertained and for what reason, and specifically bans lobbyists (such as labor's Henning) from making political contributions to win friends and influence votes. The measure also provides for investigation and auditing of the lobbyist reports by the state Franchise Tax Board and for enforcement of the entire act by a Fair Political Practices Commission. [See the accompanying article for a detailed summary of Proposition 9's provisions.]

### Measure's intent

Common Cause's California chairman, Michael Walsh, sought to reassure Henning on the measure's intent:

> Proposition 9 would break the now-existing direct link between the paid political lobbyist and political campaign contributions. This would apply to labor, business and citizens groups alike. Regularly employed lobbyists would no longer be the dispensers of campaign largess. Nothing in Proposition 9, however,


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would prohibit union officers or delegations from calling on legislators or other public officials to argue for their point of view — nor to make political contributions either as individuals or through pooled political giving to candidates.

The sole restriction on political giving applies to the individual who is employed on a full or near full time basis (as the act states, for "a substantial or regular" portion of his time) to act as a lobbyist on the state level.

Walsh went on to assert that the measure's effect in California would be no different than the practice of the national AFL-CIO in Washington, where labor's legislative and political activities are separated.

### Other provisions

The lobbying provisions are not the only changes contained in Proposition 9. Other sections merely revise state law, partly because of the Legislature's attempt to head off the initiative, in such areas as campaign reporting and regulation, disclosure by public officials of financial holdings and conflicts of interest, and improving the ballot pamphlet. (Ironically, the present *California Voters Pamphlet* is the first to be printed in magazine format, with larger type and a clearer indication of what a "yes" or "no" vote means.) But proposition 9 breaks new ground in the following areas:

- **Enforcement.** A five-member bipartisan commission would be created to hear complaints of violators and to launch its own investigations into possible violations of the proposed act's provisions. The commission would be authorized to issue subpoenas and orders and to levy fines.

- **Campaign-spending limitations.** The act would also for the first time limit the amount of money that could legally be spent on the various campaigns, including circulation of petitions to qualify initiatives. It would limit how much more one side could spend than the other in a ballot-issue campaign.

- **Incumbency.** The law now favors those holding political office in a number of ways: Their name automatically comes first on the ballot, and free mailing of "newsletters" may continue up to 45 days before an election. (Common Cause found that legislative mailings increase substantially in September of election years.) The new law would ban these mailings by an incumbent once he or she files as a candidate for reelection or another office and would limit incumbents of statewide offices to spending 10 percent less than the challengers.

### Judicial challenge

Many points contained in Proposition 9 are likely candidates for judicial challenge if the voters enact the measure. This is, perhaps, unavoidable. After all, there is a fine line between regulating campaign practices and lobbying tactics while not infringing upon constitutional rights designed to encourage citizen participation in government, as Henning's opposition suggests. The Legislature stepped over that line in 1969, in the state Supreme Court's view, with the Unruh Financial Disclosure Act, which the City of Carmel-by-the-Sea successfully challenged as an unconstitutional invasion of privacy.

Consequently, Senator George Moscone introduced Common Cause's proposal last year to require public officials to disclose conflicts of interest and declare financial holdings — but only in terms of relative magnitude. (Public officials subject to its provisions must only indicate any holdings exceeding $1,000 and whether these also exceed $10,000, but not by how much.) This was an effort to avoid the specific issue that killed the Unruh act; the Legislature passed a somewhat diluted version of the bill and Governor Reagan signed it on that basis.

Nonetheless, that new law was immediately challenged by Nevada County officials as an infringement of their privacy. In March, the state Supreme Court agreed to decide the issue's constitutionality.

Proposition 9 includes this same concept of magnitude but restores the requirement (removed by a key amendment to the Moscone act offered by the League of California Cities) that local governments must extend conflict-of-interest codes to their subdivisions, such as planning commissions (where conflicts of interest are thought to be most frequent). Under the law being challenged, local governments "may" impose such codes. Proposition 9 also adds a further measure of magnitude — whether an investment that exceeds $10,000 *also* exceeds $100,000.

### Washington state's initiative

Proposition 9 is a refinement of an initiative enacted in the State of Washington after a similar campaign by Common Cause. Since that measure's adoption, a number of its provisions have been challenged in court, and the privacy issue was vindicated by the Washington State Surpeme Court, which held the right of privacy to be "not an absolute". Against a public official's right to privacy, the court put a citizen's "no less fundamental" right to "information which clearly and directly bears upon the qualifications and fitness of those who seek and hold public office." Such information, the court said, "is unquestionably in the public domain."

Whether Henning's placement of organized labor in the forefront of acknowledged opposition to Proposition 9 will bring out equally strong statements from business and other private and quasi-private interests having a financial stake in government remains to be seen. Right or wrong, however, Henning showed more vigor in his opposition than did the author of the argument against Proposition 9 written for the *Voters Handbook* by Senator Clark Bradley of Santa Clara.

Bradley's thesis is that the measure constitutes "overkill" and is unneeded since it "will not stop anyone from being dishonest if he is determined to lie, cheat, or break the law." The proponents counter that the same logic would suggest repeal of laws prohibiting arson, robbery and murder "simply because the laws are not 100 percent effective."

Presumably, Bradley is correct in saying that honesty can't be legislated and also that the majority of public officials "are honest men and women". It is less certain that passage of Proposition 9 will, as Bradley writes, "literally discourage honest, educated men and women from running for public office or holding office if elected", although some prospective public figures may well find that they treasure the privacy of their financial balance sheet over public service.

The key issue for the voters to decide, in any case, is whether Proposition 9 would substantially increase the risk of dishonest behavior by public officials and the lobbyists who attempt to influence their actions in ways that do not now exist in California law.


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# *Summary of major provisions of Proposition 9*

**Campaign receipts and expenditures.** In every campaign for elective office, at all levels of government, reports of all contributions and expenditures must be filed if at least $500 is raised or spent. The reports are due at specified times:

- Candidates and committees must report 40 and 12 days before the vote and 65 days after.
- Proponents of ballot measures must report 65 days after qualifying their measure.
- Committees supporting or opposing ballot measures must report 35 and 7 days before the election and 70 days after.
- Elected officals must report every six months while in office.

These reports must identify all contributors of $50 or more by name, address, occupation and employer's name, the amount given each time and cumulatively. Persons receiving $50 or more and the services they render must also be identified.

Campaign committees must file statements with the secretary of state. These must include their affiliation, treasurer and principal officers, and the name and office sought by each candidate and title of each measure they support or oppose.

**Fair Political Practices Commission.** A five-member appointive board, no more than three of whose members can be from the same party, is created to enforce the initiative's provisions and is given a $1 million annual appropriation. The Governor appoints two members not of the same political party, and the attorney general, secretary of state and controller each appoints one member.

The commission is to investigate charges of possible violations of the Political Reform Act on the part of agencies, public officials and candidates. It may subpoena records and witnesses, issue cease-and-desist orders, and levy fines up to $2,000.

**Campaign spending limits.** How much may be spent in statewide campaigns is based upon the number of citizens of voting age in the state as of January of the year preceding the election. Using the 1973 estimate of 14 million voting-age persons, the spending limits are:

- **Governor** — 7¢ per voting-age citizen ($980,000) in the primary and 9¢ in the general election ($1,260,000).
- **Lieutenant governor, secretary of state, attorney general, controller, treasurer, superintendent of public instruction** — 3¢ per voting-age citizen ($420,000) in the primary and again in the general.
- **Incumbents seeking reelection to statewide office** — 10 percent less than their challengers' limits.
- **Independent committees** — $10,000 maximum.
- **Initiative qualification** — No more than 25¢ times the number of signatures required may be spent ($81,376) to qualify statewide measures such as this.
- **Ballot-measure campaigns** — Expenditure limits over $10,000 will be set by the Fair Political Practices Commission. Expenditures for both sides may not exceed the lesser of the following: 8¢ times the voting-age population ($1,120,000) or $500,000 more than the amount approved by the commission to be spent by one side.

**Conflict-of-interest.** Public officials must disclose financial holdings that present "a potential conflict with their official responsibilities", and are disqualified from making public decisions in areas of conflict.

Elected state officers, boards of supervisors, city councils, the chief administrative and elected officers of cities and counties, and candidates for election to any of these offices are covered. Disclosure must be made before assuming office, periodically while serving, and on leaving office. The statements include:

- Any investments worth at least $1,000, indicating whether their value exceeds $10,000 or $100,000.
- Income totaling $205 or more in 12 months, indicating if it exceeded $1,000 or $10,000; any gifts valued at $25 or more, with the name, address and a general description of each source.
- Income from businesses, if more than $1,000 was received for legal or brokerage services, or $10,000 for other businesses.

All state and local agencies must adopt a conflict-of-interest code that contains:

- A list of jobs vulnerable to conflict-of-interest considerations.
- The circumstances under which an official must be disqualified from acting.

**Ballot pamphlet.** The ballot pamphlet sent to voters before each election is revised to include more information in a more readable format. The text of all proposed measures and the existing laws to be repealed are to be included, along with arguments and rebuttals for and against, and an analysis prepared by the nonpartisan legislative analyst.

**Incumbency.** The fact of holding the office being contested is not a factor in determining the order of placing candidates' names on the ballot. Once an elected state officer files a declaration of candidacy, all mass mailings at public expense must cease.

**Lobbyist regulation.** Lobbyists must register with the secretary of state. (They now register with a joint committee of the Legislature.) Lobbyists may not make contributions or gifts exceeding $10 monthly. They must open separate accounts to handle lobbying funds.

All payments received for their activities must be reported periodically; these reports also include deposits and expenditures in the lobbying account, expenditures of $500 or more in one year made to any business in which a public official or candidate holds interest. The legislative or administrative decisions the lobbyist sought to influence must also be reported.

Those who hire lobbyists or who spend at least $250 a month to influence legislative or administrative decisions must report expenses over $25, gifts to officials, candidates or members of their families, business transactions exceeding $1,000 with firms in which an official or candidate has ownership, and the date and amount of political contributions.

**Auditing.** The Franchise Tax Board audits and investigates reports filed by lobbyists.

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# Why Congressmen are quitting:

# Red eyes and broken marriages

By Gil Bailey

The job pays $42,500 a year with an almost certain promise of a raise a year from now. It includes a staff of up to 16, for which an allowance is given of $194,004 a year. There is also an excellent health plan, a more-than-healthy pension, free mailing privileges, and a large telephone and stationery allowance, among other fringe benefits. The job is that of Member of Congress. Yet, even with all its advantages, Members of Congress are quitting these days in record numbers. So far, at least 41 members have announced their retirements — six of them from California's 43-member House delegation.

"It just isn't any fun any more," said genial Charles Gubser, a popular conservative Republican from Santa Clara County who faced only a minor reelection threat but is quitting anyway after 22 years in the House. Gubser's remarks are echoed by Representatives Craig Hosmer of Long Beach and William Mailliard of San Francisco, both Republicans and each with 22 years of service.

As hundreds of candidates line up for these plush congressional posts, perhaps the complaints of the retirees should dampen some of the election fever. As one of the retirees put it: "Sometimes there is one thing worse than losing an election, and that's winning it."

### Swollen jobs, broken marriages

Representative Chet Holifield, the dean of the California delegation, who is retiring after 32 years, had this explanation of why the job might not be "fun" any more: "When I came to Congress, I had only 200,000 or so constituents. Now, I have more than 400,000. When I came to Congress, we had only maybe a fourth as many federal programs to deal with, and we had time to get back home for several months each year. Now, I work every Saturday and Sunday, and I get home for only a short period." Holifield explained that he was quitting, in part, to have a little time with his children, grandchildren, and great-grandchildren.

Holifield's sentiments point up a fact of life for the Members of Congress. A lot of them see their marriages founder on the rocks of political careers. Working south around San Francisco Bay, for example, Representatives Leo Ryan of San Mateo, Pete McCloskey of Menlo Park, Don Edwards of San Jose, Gubser of Gilroy and Fortney H. Stark of Alameda County have had marriages dissolve. Politics played some role in each dissolution. Senator John Tunney also saw his marriage break up, and his wife put the blame squarely on politics.

Some marriages survive very well, of course, such as Holifield's. Cam Holifield acts as office manager and full partner for her husband. But unless the spouse shares a love of politics, marriage and politics in the nation's capital can lead to estranged bedfellows.

### The constituents

Then, there is the voter back home, the constituent. One Californian wrote his lawmaker recently: "Why don't you get off your ass and do something about these gasoline lines? If your ass was in those lines, I'd bet you'd do something, but you're too big and fat and important to stand in line." (Some really smoking words followed.)

Holifield, Hosmer, Gubser and Mailliard, the senior members of the retiring delegation, agree that the public mood has grown meaner in recent years. Issues have been divisive, with partisans less than charitable with those who oppose them. The Vietnam War created bitter divisions between "hawks" and "doves" with no room for compromise (or civility) between opposing factions. In addition, the environment, civil rights, school-busing, abortion, and prayers in public schools are all issues that divide the godly and the ungodly. (Representative Edwards, whose civil rights subcommittee of the House Judiciary Committee was handed the three explosive issues of busing, abortion and school prayer, first found his San Jose office picketed by anti-abortionists; then, once word got out, the pro-abortionists arrived, signs in hand.)

### 'Ideological Democrats'

And the old civility of Congress — "the honorable gentleman" or the "honorable gentlelady", as members are supposed to address one another in debate — has faded under the increased pressure. Debate is not always so polite these days.

"In the old days," recalled Gubser, "we could usually reach an area of compromise. We were men and women of good will, regardless of party, and we could get things done." This Republican blames many of the ills of the present Congress, ironically perhaps, on Senator Barry

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Charles Gubser | Richard Hanna | Chet Holifield | Craig Hosmer | William Mailliard

Goldwater. "When Barry ran for President in 1964 — God bless his soul — it was a Republican debacle, and we got a Congress full of ideological Democrats. You just can't reason with them."

Hosmer, an outspoken advocate of nuclear power generation, feels somewhat the same way about environmentalists, the "eco-freaks" he enjoys slicing up with a more-than-sharp tongue. "They just don't know what they are talking about," he complained, "but that doesn't stop them from talking." Holifield's pet hate is Ralph Nader, who blames the Californian for last year's defeat of consumer legislation — a distinction that Holifield believes should go to Nader. "He just isn't reasonable," claimed Holifield.

### Public life and red eyes

For some members, public life itself palls after some terms in the House. Constituents' petty demands, the pestering from the press, the need to shuttle between Capitol and district and to face election every two years take their toll as time passes.

The shuttling works a particular disadvantage on the western member of House or Senate. One recent Tuesday morning when the House Judiciary Committee assembled to discuss impeachment, two of the Californians present could be distinguished from their eastern colleagues by their red eyes. They were Representatives Edwards and Jerome Waldie, the Antioch Democrat. Both had taken the overnight flight known as the Red Eye, which left their eastern counterparts on the committee looking well rested in comparison. "You lose two nights' sleep every time you go to California," Waldie said, "and when you make that trip every week, it adds up." (Waldie makes it every week in pursuit of the Democratic nomination for Governor, for which he is giving up his seat in the House, but the need to keep in touch often dictates a roundtrip at least monthly.)

Meanwhile, when the member is in Washington, the challenger back home can complain that the incumbent isn't paying attention to the district. If the member is in the district, on the other hand, an opponent can complain that business in Washington is being ignored. "You can't win," observed Gubser, who has decided not to try to anymore.

### Unspoken reasons

There are some unspoken reasons for the retirement of so many Members of Congress this year. The fact that retiring Republicans outnumber retiring Democrats suggests discouragement in the face of the political skullduggery continuing to emanate from the Watergate affair. Moreover, many Republicans high on the seniority list no longer have hopes of heading committees, since it appears unlikely that their party will soon win control of Congress. As one said, only partly in jest: "I am retiring for reasons of health. The voters are sick of me."

Among retiring Californians, the following reasons have likely played a role in their decisions to quit:

- *Mailliard.* This San Francisco Republican drew a Democratic district in the reapportionment map drawn by the state Supreme Court special masters and took an ambassadorship with the Organization of American States rather than face a tough campaign back home.
- *Hosmer.* Although he seemed hale, hearty and ready for the fray, Hosmer has suffered two heart attacks.
- *Holifield.* At age 70, Holifield faced a tough primary fight, including a battle with his friend, Representative George Danielson, also a Democrat, because of the newly reapportioned district.
- *Richard Hanna.* Reapportionment handed this Democrat an increased preponderance of Republicans in already conservative Orange County, narrowing his chance for reelection.
- *Waldie.* Tiring of being a House member low on the seniority list, Waldie decided to risk all in an uphill battle for the Democratic nomination for Governor.

### Reduced influence

For California, the loss of some of the most senior members of its congressional delegation means a real diminution of the state's influence in the House [which, according to an appraisal published in the February *California Journal*, is already less than might be supposed, given the state's population]. Holifield, for example, is the only committee chairman from California, and his retirement will mean that Texas will now have six committee chairmen and California none. Mailliard was the senior Republican on the House Foreign Affairs Committee, and he and Hosmer were senior on the House Interior Committee; their retirements damage California's position on both committees. Gubser was senior on the House Armed Forces Committee, and his retirement will hurt the state's influence there. The delegation lost through death Representative Charles Teague, a Republican from Ojai who was a powerful voice on the Agriculture Committee. Also, a number of incumbents face difficult reelection campaigns, including Representatives Burt Talcott of Salinas, Bob Mathias of Tulare and Victor Veysey of Claremont — all Republicans.

The new blood that will flow into Washington may help rejuvenate the California delegation, but the old blood carried a lot more clout than any freshman will wield. And the seniority system will ensure that California's relative congressional impotence will stay that way for 10 years or so.



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Harvey Rose Vincent Thomas

# Coming on strong - state's new auditor general

By Bruce Keppel

When Harvey Rose became San Francisco's first budget analyst in March 1971, he had to fight the city's powerful Board of Permit Appeals in order to win office space. He won that battle, plus a number of others of greater consequence which brought him to Sacramento to be the Legislature's top investigator, the auditor general. Last month, Rose won his first major battle there, a vote of confidence from his new employers that effectively quelled an incipient coup d'etat. It is certain not to be Rose's last Sacramento fight — if his professional past is any indication.

Rose succeeded the state's only previous auditor general, William Merrifield, last October 29th. Merrifield had been forced into retirement a year earlier by Assemblyman Vincent Thomas of Long Beach, chairman of the Joint Legislative Audit Committee, the auditor general's boss. The committee spent the interim combing the United States for a replacement, meanwhile leaving Chief Deputy Walter Quinn in charge but without portfolio.

There were 190 candidates, including Rose and Quinn. Legislative Analyst A. Alan Post and Legislative Counsel George Murphy narrowed the field to five, still including Quinn and Rose. When the committee finally selected Rose last August, Quinn successfully went after Rose's job in San Francisco.

But before going, Quinn set up Rose's first fight in Sacramento by detailing to Thomas in his letter of resignation an account of staff dissension that prompted Thomas to call in Rose for an "evaluation" after only a few months on the job. This prompted a press report that Quinn, a 17-year veteran of the office, had quit suddenly as a protest against Rose whose new job was in jeopardy. It apparently didn't take Rose long, however, to reassure Thomas and his committee. In March, after all, the Assemblyman had reported darkly that "at least 50 percent of the Auditor General's 60 employees are looking for other jobs — things are at a standstill." But less than a month later, Thomas gave Rose his committee's vote of confidence, concluding: "Personnel problems have been solved." Between Rose's hiring in August and his start of work in late October, five persons resigned; since then, three others quit, including Quinn (who, far from resigning suddenly, had applied for Rose's San Francisco job before the new auditor took office.) It was hardly an exodus.

Rose doesn't deny that there was some tension after he took over, and he accepts some of the blame for that. "I'm a very intense person," he said in an interview. "I did come on pretty strong." (There were also personnel problems before, Thomas said, perhaps created by the relatively long interregnum.)

Rose's comment on himself was less an apology than an acknowledgment of a fact that he could document. The point is important to an understanding of Rose, to whom documentation is a most important word. And thorough documentation was a characteristic of the work he did in San Francisco that commended him to the legislators and to such diligent screeners as Alan Post and George Murphy.

## Profit motive

"I want to make a profit for the state," Rose said of his motivation toward his new job. "Who can be against government's being run in the most economical way possible? That's what I mean by profit."

This orientation toward turning up cash savings for the state was apparently central to what Quinn called his "overall philosophical difference" with Rose. "He is more concerned with producing cash savings," Quinn said. "I'm more interested in providing direct information to the Legislature that would be useful to them." Presumably, the Legislature considered the two approaches to discharging the auditor general's responsibilities and chose accordingly.

Since Rose took over, a steady stream of reports has emerged from the corner office on the seventh floor of the austere new building at 10th and L Streets, a stone's throw from the Capitol, whose gold-plated ball is clearly visible sparkling in sunshine through the large windows. In these initial reports, Rose's staff:

- Charged the Reagan administration with failure to conduct "valid negotiations" with prospective bidders for a $15 million electronic-data-processing contract given to IBM.
- Recommended that the California Commission on Aging be removed from the Health and Welfare Agency because of mismanagement and misuse of funds.
- Pointed to improper bidding procedures and potential conflicts of interest in the financial holdings of two board members of the California Crime Technological Research Foundation.

The reports are brief and to the point, which means that the staff took note of the new boss' remarks on opening day. "I believe that failure to get our recommendations implemented can sometimes result from too many words in a report," he told his colleagues. "Our reports must be factual, but at the same time written in a constructive manner. We're *not* here to embarrass people, but we are here to effect economies. Our recommendations should be simple and direct and, if properly implemented, should result in the substantial savings that I'm talking about."

This is the sort of audit Thomas and his committee apparently had in mind but couldn't get from Rose's pre-


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**The auditor general . . .**

> *. . . shall make such special audits and investigations, including performance audits, of any state agency whether created by the Constitution or otherwise, as requested by the Legislature or any committee of the Legislature.*
>
> *–Section 10528, Government Code*

decessor. "We want something more than [financial] auditing," Thomas said in an interview. "We want a check on performance."

Thomas' committee has provided Rose with more money and manpower for carrying out this broader function. The office's staff has been increased to 60, including three attorneys and 21 certified public accountants (including Rose), and the budget was raised from $850,000 to $1.3 million. (This is a sum Rose vows to save the state many times over by the recommendations that his staff will make in the two years of his first contract.) The committee also changed its rules governing release of the reports. In the past, partisan differences in the nominally bipartisan panel blocked publication of the most potentially controversial and politically embarrassing reports, since a negative vote by two of the three members from each house could suffice to suppress the findings. Now, Thomas said, copies are automatically distributed to the standing committees of both houses and to any legislator who requests a copy. Moreover, the composition of the committee itself was increased with addition of the chairmen of the two fiscal committees, Willie Brown of the Assembly Ways and Means Committee and Senator Randolph Collier of Senate Finance. Also added was the chairman of the Assembly's Committee on Efficiency and Cost Control, Mike Cullen. All are Democrats.

### Performance audits

With these improved operating conditions, Rose is determined to produce the hard-hitting but fully documented reports he feels he was hired to generate. He made this plain to his staff on taking office. "The joint Legislative Audit Committee has made it clear to me," he told his colleagues, "that they want the emphasis placed on the management or performance audits, which as you know have significant payoff potential." These audits, Rose went on, will be "conducted through the front door", with nothing secretive about the office's investigation and complete confidentiality granted to the personnel interviewed. But once the audit is completed, he reminded his staff, no punches are to be pulled:

> If there is no room for improvement and if the agency is doing a great job, then that is exactly what we'll state. However, I believe that, in the normal course of our operations, we're going to hit on significant areas which can generate savings because, let's face it, state agencies are just like you and I — we can all stand improvement.

Rose acknowledged that such an approach is unlikely to win friends within the agencies investigated. "Nobody likes a Monday-morning quarterback," he observed, riffling a pile of critical responses generated by targets of recent audits. "We obviously are going to rock the boat."

### San Francisco record

Rose's boat-rocking saved San Franciscans millions of dollars (as he can document). Jerry Burns, who covers City Hall for the *San Francisco Chronicle*, summarized some of the savings:

- In September 1971, he issued his first major report, recommending that fiscal controls over general welfare assistance be tightened to save the city $600,000 a year.
- In November 1971, he suggested that the city treasurer invest tax revenue in U.S. Treasury notes to draw higher interest than the existing practice generated, a reform that yielded $543,831 in the first year alone.
- He saved the city another $150,000 a year by standardizing purchases of furniture and automobiles.
- But the real block-buster was his recommendation that the Airport Authority should repay San Francisco taxpayers $24.3 million advanced before the international airport became self-sufficient in 1957.

Not all of Rose's findings went unchallenged. Nor were they all accepted. For example, the former president of the Librarians Guild, Nancy Musser, charged Rose and his staff with making audits to confirm preconceived conclusions. Rose's study had found that San Francisco's libraries could remain open more hours and the main library could open on Sundays by merely rescheduling existing staff. "They simply judged the libraries in terms of costs and financing," Musser asserted, "not in terms of the kinds of quality of services provided the public." The unhappy librarians maintained that they were already overworked and, so far, nothing has been done.

But whether the politicians who employed Rose chose to follow his recommendations or to accept the justification for the criticized practice, they highly praised their budget analyst. "He succeeded beyond our fondest hopes in doing exactly what we hired him for," said San Francisco Supervisor Robert Mendelsohn. "He gave us an independent, expert analysis of the efficiency of major city departments." (A similar motive lay behind creation of the Office of the Auditor General in 1955, Assemblyman Thomas said. "It was to be a means to counter some of the executive power advantage.")

If Rose's aggressiveness made some of the City Hall regulars uncomfortable, Mendelsohn wasn't impressed. "The only enemies he made were those who expected him to operate in the 'old crony' way — those who expected business as usual. Harvey was absolutely fearless. He called things as he saw them, and that made a lot of people very unhappy."

### Key to success

Rose, in turn, attributed his success in San Francisco to his bosses, the members of the Board of Supervisors. "The politicians were big enough there to let me go in and do my thing," he said. "That's really important."

Such support is crucial, since unaccepted recommendations undercut an investigator's credibility. And it remains to be seen whether the Legislature that hired Rose will give more attention to following up his recommendations than they did to his predecessor's. With 80 percent of the staff in the field at work on 35 separate audits most of the time, there will be no lack of material, and seeking savings in other people's operations is an activity most lawmakers understand and relish.

"We will stand on our reports," Rose said, less than a month since Quinn's abortive coup. But it will be up to his bosses, the politicians, whether anything is to become of them.



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# The $25 blue-plate special: only scraps for the environment

By John Curtin

*The Legislature in 1970 apparently grossly overestimated both the vanity of Californians and their willingness to shell out money voluntarily for the protection of the state's environment. In that year, law makers enacted the Badham Marks Environmental Protection and Research Act, more commonly known as the personalized-license-plate program. The sponsors of the proposal, which had been kicking around for years, claimed that the "vanity plates" would raise many millions of dollars for the state – some estimates ran as high as $10 million in the first full year of operation – without placing a tax burden on anyone, since the vehicle owner would decide whether he or she wanted to spend the $25 for a custom-made license plate. Senator Milton Marks of San Francisco and Assemblyman Robert Badham of Orange County were able to sell the program by attaching the magic word "environment" to the plan. Supposedly, Californians who bought the special plates would be providing funds for ecological projects that the state otherwise could not carry out.*

*How has the public responded, and has the program had any impact on the environment?*

From reading most of the press accounts of the personalized-license-plate program, one might get the idea that all the bugs in the operation so far concern avoiding the award of a blue-plate special bearing an obscenity or combinations already selected. In actuality, the program has virtually collapsed (even though you can still obtain personalized plates). Collections have run far short of expectation. There has been no discernible impact on the environment. And, administratively, the program has become a strayed lamb without even a shepherd trying to return it to the fold.

## Great expectations

Expectations ran high at the program's beginning. Legislative Analyst A. Alan Post, known for his generally conservative estimates, said that the new plates should generate $7 million for environmental projects. Public response has been far below this. As long as the state conducted an aggressive promotion campaign, sales progressed at a steady but unspectacular pace. Since the publicity was stopped last year, however, sales have plummeted. By the end of 1973, the Department of Motor Vehicles had approved 150,274 applications for the special plates, and 131,000 plates were actually circulating.

At the rate of $25 for the first year and $10 for renewals, the program brought in about $3.3 million in first-year fees and $1.3 million in renewals last year. This, Badham admits, represents "a drop in the bucket".

Plate sales ran so far behind expectations in the first year that not enough money was raised to finance the Air Resources Board projects awaiting the anticipated revenue. Terry Chambers, deputy secretary of the state Department of Transportation and once a prime champion of personalized license plates, was one of those charged with getting the program off the ground. He is discouraged now by the lack of publicity and by the relatively minor role that the proceeds are playing in cleaning up the state's environment. At one time, he had hoped that the plates would become the chief source of funds for programs involving motor-vehicle pollution. David Marty of the state Resources Agency, another who has been charged with administering a portion of the program, said it was a blow to have budgeted so much money for environmental work, only to have to cut back severely because too few plates were actually sold.

The key to making the program work was publicity. The Reagan administration set out to appeal to the environmental spirit of the public. Until last year, the Department of Motor Vehicles enclosed a pitch for the program with every license-renewal notice it mailed. The department now merely processes the applications that do come in. It was thought that drivers would jump at the chance to have their own personalized plates while showing their ecological support.

## Specific use of funds

The law allows the proceeds to be used for almost any project designed to protect the state's environment, but it makes specific mention of "control and abatement of air pollution generated by motor vehicles." And this was the basis under which the Badham-Marks act was passed as an urgency statute:

> Motor vehicles are a major contributor to air pollution in this state, and the need to abate such pollution is growing greater each day. Only through research into all phases of this problem can we take a giant step to preserving and protecting California's environment and the people of this state. The program established under this act will serve as an instrument to solve this serious and dangerous problem.

In practice, however, the proceeds were allocated to a variety of projects coming generally under the banner of the environment — a study on agricultural burning and an investigation of problems associated with mercury, for example. From its inception in August 1970 through December 1972, the fund was committed to more than a dozen projects, but only two of them were directly related

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*The author, a student at the University of California at Davis, prepared this article while serving an internship with the* Journal.


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to motor vehicles. (And one of these involved construction of roadside ecological viewing areas.) More recent projects include state school-land classification (1972-73 budget), smokestack monitoring (1973-74) and defining litter (1974-75). Chambers complains that the fund is being used for some "ridiculous projects" that are only remotely connected with helping the environment. He would prefer to see the funds used in rifle-shot fashion to curb one or two elements of pollution, and preferably those connected with the automobile.

### Spending the money

Who watches this fund, small as it is, to make sure that the original intent of the law is carried out? The secretaries of two agencies — resources and transportation — jointly administer the program, but neither appears to have special interest in reviving it. And who is checking on them? Badham is concerned primarily with revenue. Marks, who struggled for ten years to get the bill passed, is nonetheless far more concerned today with current legislative programs than with the administration of this old one, a past battle.

Thus, the Environmental Protection Program Fund is viewed in the Capitol as a "slop fund", according to Bob Connelly, environmental specialist of the Assembly Ways and Means Committee. Connelly said that it amounts to "money looking for a purpose", and cites as evidence the half-hearted administration of the fund and the kind of projects financed. The fund's full-time administrator was eliminated last year in an economy move. Revenue now goes directly to such individual agencies as the Department of Fish and Game and the Air Resources Board, rather than being channeled through a central administrator. While saving some overhead money, elimination of the administrator also removed the one person in state government who, theoretically, had a direct interest in promoting the sale of environmental license plates and the responsibility for ensuring that the funds were put into appropriate projects.

One explanation given for elimination of this coordinator's position is that the purchase of plates is strictly voluntary and that, if the public really cares about eliminating pollution, motorists will come forward with their $25 fees to buy the special plates. Connelly claims that $25 is a lot of money to a family with earnings of $8,000 a year. People concerned about the environment also might not see any value in having personalized plates and might prefer to donate in other ways. (Badham, incidentally, at one time wanted the initial fee to be $50, on the assumption that anyone wanting special plates would just as soon pay $50 for the privilege as $25. He may well have been right.)

### Fund disappears

As far as the Legislature is concerned, the primary problem now is disposing of what money the program has raised. In this year's budget, the fund no longer appears separately, but is carried in the general mix of departmental allocations. In other words, the fund has ceased to exist as a budgetary entity. This would make it virtually impossible to carry out Terry Chambers' plan to limit expenditures to motorist-oriented projects. Some conservationists would like to see the money go to the Department of Parks and Recreation to buy small ecological preserves as they become available throughout the state. But that doesn't appear in the cards.

Currently, the legislative dispute centers around the Department of Fish and Game, which apparently is not raising enough money from hunting and fishing licenses to meet its anticipated expenditures. So the department sought $1 million in license-plate revenues. According to Ways and Means Committee staff, the department recognized that it couldn't get the needed money to meet its deficit simply by asking for it, so it concocted a series of programs for ecological use of Badham-Marks money. How much of this money, if any, the department gets will await final determination on the budget.

There is no question that the program has failed to become a major contributor to the protection of the environment. Badham is disappointed that the original goals have not been met, or even approached, but he defends it as an exciting and innovative undertaking that induced a "respectable" one percent of the state's motorists to apply for personalized plates. As low as public response has been, however, it is getting lower. Fewer Californians apply each year for special plates. This means that the fund eventually will receive few $25 fees and will exist solely on $10 renewals. After the Department of Motor Vehicles gets its reimbursement for administering the program, there would be only peanuts left for environmental appropriation.

Nothing that has happened since the passage of the Badham-Marks act in 1970 has proved that Californians are willing to pay extra license fees voluntarily for the sake of the environment. The reason people buy plates is "ego" rather than "eco", and some of the original proponents, like Chambers, would just as soon see the program scrapped as have it continue in its present state of extreme anemia.

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# Nebraska's Unicameral – would it work here?

By DENNIS J. OPATRNY

"One for All" may bring to mind *The Three Musketeers* or perhaps a Billy Graham sermon, but right now it's a slogan for political reform. But, then, political reformists, religious zealots (and even musketeers) have in common one pursuit at least — a cause. The "One for All" slogan is being chanted today by those seeking converts to the cause of transforming California's two-house Legislature into a single chamber called in the one state to adopt such a legislature "the Unicameral". They've started an initiative drive to collect 520,806 signatures by the end of June to qualify their proposal for the November general-election ballot.

This raises the question: Would the Unicameral be a legislative blessing or a curse for the nation's most populous and diverse state?

The only one-house legislature in the nation now convenes annually in Nebraska, which in many ways may seem to be a most unlikely place for something out of the ordinary to occur. But George Norris was out of the ordinary, and the Unicameral was his idea. It convened in 1937 for the first time, and Nebraskans haven't thought of legislating any other way since.

### Will it work here?

Norris was one of those strong independent-minded Great Plains politicians beholden more to his conscience than to his constituents. Yet he served 40 years in Congress, in both the House and the Senate. He fathered the Tennessee Valley Authority, which eventually led to an all-public-power system for his own Nebraska — and also to some of the lowest electricity rates in the nation. Californians have yet to discover or embrace Norris' public-power ideas on a large scale, but many have been charmed by the one-house legislature, particularly since the U.S. Supreme Court in 1964 handed down its so-called one-man, one-vote doctrine, which held to be unconstitutional the concept of electing senators on the basis of geography rather than population, a practice that long favored rural interests over urban.

The "One for All" plan is being pushed by an organization headed by Municipal Judge Lewis F. Sherman of Berkeley, a former Republican state senator. The proposal, authored by Democratic state Senator Arlen Gregorio of San Mateo, has already gone down to defeat in the Legislature this year, despite support from the two former kingpins of the Democratic Party in California, ex-Governor Pat Brown and former Assembly Speaker Jess Unruh. Sherman himself concedes that his initiative drive is doomed to failure unless the initiative is embraced wholeheartedly by such reform-minded organizations as Common Cause and the People's Lobby (which happen at this time to be busy promoting their own measure, Proposition 9 on the June ballot).

*The author, a member of the Capitol press corps, covered the Nebraska Unicameral for two years.*

Sherman's proposal would reduce the number of lawmakers from 120 to 99, but contains a provision for expanding the number to 119 to meet population increases. Legislators, who would all be called senators, would serve staggered four-year terms (like the present California Senate) and wield nearly the same authority as present incumbents. The only major power to be taken away would be the drawing of new legislative and congressional districts every ten years to reflect population shifts. (The job of reapportionment would be entrusted to a 15-member commission chosen by lot by the Secretary of State from a list of nominees drawn up by the state Supreme Court. Each political party would strike ten nominees without cause, a provision analogous to the peremptory challenges allowed attorneys in selecting a jury.)

### Open meetings

The proponents chant a litany of arguments in favor of the single chamber, and they usually begin with the one that they suppose holds the greatest appeal for voters, economy. A Unicameral would be more economical, they reason, since it would have 21 fewer members and, presumably, a proportionate reduction in staff.

Supporters also contend that special interests — meaning lobbyists — would have less influence in one house, since its fewer members would be "more visible". The labyrinthine legislative path also would be simplified, though not to the detriment of due consideration, they say, because bills would get a fourth reading before passage. They now get three readings, but repeated in each house — six readings in all.

(Opponents of the Equal Rights Amendment claim that the Nebraska Legislature ratified the ERA with undue speed because of the streamlined, single-house process. They used this as an argument to have the Unicameral rescind its action. But legal scholars disagree as to whether the rescission is valid.)

But perhaps most significant among the arguments advanced in support of the Unicameral is the constitutional requirement contained in the initiative that all committee hearings and meetings — except those dealing directly with personnel matters — be open to the public. Most now are open, but some joint conference committees, composed of three members from each house to reconcile differences between Assembly and Senate versions of legislation, remain closed. (To their credit, California lawmakers last year moved to open up the most important of these conference sessions, the one on the budget bill.)

The need for conference committees in a bicameral legislature particularly irked Norris and goaded him into urging his fellow Nebraskans to establish the single chamber. Norris felt that legislating out of the public's view diminished public confidence in the legislation that emerged.

The U.S. Supreme Court broke up California's rural-dominated Senate (in which Los Angeles had only one representative) eight years ago. Talk of streamlining the Legislature followed naturally because, starting with the



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1967 session, both houses were apportioned by population. But getting incumbents to support a Unicameral was like asking them to commit political suicide because many of them would find themselves out of office or running against one another in newly apportioned single-chamber districts. Although introduced several times in the last ten years, the one-house plan has never emerged from a committee hearing with a favorable endorsement.

### Nonpartisan Nebraskans

While proponents of the plan have patterned their initiative after the Nebraska Unicameral, they left out one major feature that nearly everyone agrees plays a vital part in making that one house work: nonpartisan lawmakers.

Norris took Hiram Johnson's idea of nonpartisan local governments and applied it to the Nebraska Legislature, while retaining party labels for other statewide elected officials. The vacuum created by the lack of party discipline was filled, in the Cornhusker State, by a variety of politics best called regionalism. In Nebraska, city folk from Omaha and Lincoln, the capital city, are often at odds with what is generally known as Outstate, which is just about everything west of the two cities. The nonpartisan nature of the Nebraska house is also genuinely reflected in its leadership and operating procedures.

These procedures are much less rigid than those proposed by the California version. Supporters propose creation of a Rules Committee of up to 15 members presided over by the Speaker of the Legislature, who would be elected by the house. Members of the Rules Committee, elected by secret votes of each party's caucus, would exercise most of the powers now wielded by the Assembly Speaker and the Senate Rules Committee. These include selection of committee members and assignment of bills to committees for hearings. However, committee members would elect their own chairpersons by secret ballot — a major departure from the present practice whereby these positions are appointed by the Speaker in the Assembly and by the Rules Committee in the Senate.

The Nebraska prototype has no hard-and-fast delegation of authority fixed in statute or locked in the Constitution. Rather, power flows more from personalities and power blocs than from specific rules.

Another comparison of the Nebraska-style Unicameral and its proposed California version shows a great contrast in the pay and benefits accorded legislators. Nebraska's 49 senators receive $4,900 a year, no living allowances and one round-trip ticket from home to Lincoln each session. Two or three of them share a partitioned room as office. There are research and secretarial pools, but no Nebraska lawmaker has a personal staff. Nor are they furnished cars.

California lawmakers, on the other hand, are paid $19,200 plus $30 a day for living expenses while the Legislature is in session, which is most of the time. Each enjoys a state-leased car and unlimited charges on an oil company credit card. Every California senator and assemblyman has an office, and some have suites with adjoining rooms. All have personal aides, who work either in Sacramento or in the home districts. All have Sacramento and home district secretaries.

### California's diversity

But the question of whether a Unicameral would work in California, even under revised operating rules, turns more on the differences between the states than on the similarities their one-chamber legislatures might have. For example:

- California, with its 21 million residents, is the nation's most populous state and is still growing; Nebraska has a static population of 1.5 million, which is also much less mobile and much more homogeneous than California's.
- Only 42.8 percent of Nebraskans live in metropolitan areas, while 92.7 percent of Californians do, creating urban problems here that are all but unknown in Nebraska.
- California leads the nation in the number of poor persons it has, while Nebraska ranks 38th.
- Nearly 20 percent of California's population is either black, brown or yellow; only three percent of Nebraskans are black.
- In California, legislators must deal with the politically volatile and tense issues involving services for people in an urbanized society; Nebraskans still wrangle over paving county roads.

Whether 99 men and women in a California Unicameral would be as creative as the 120 sitting in two houses is impossible to predict. And it will remain uncertain unless the single chamber is tried. But the efficiencies of having one house instead of two are not entirely unmixed blessings. While one house may solve problems more readily than two, once a measure is killed there is no "ransoming" something the other chamber may want more — a parliamentary tactic not now unknown in Sacramento.

Nebraskans like to boast of how little influence lobbyists can exert on their 49 senators. Special interests there must deal with 25 nonpartisan lawmakers, a majority of the Unicameral, to win support for a bill or to kill one; there are no party leaders to line up the votes. Dealing with legislative party leaders could make lobbyists even more powerful in California. While many special-interest bills cut across party lines, in a one-house legislature the nature of things could change. For example, a lobbyist dealing with but eight members — a majority of the proposed all-governing Rules Committee — could wield enormous power in the 99-member house. The "third house" still enjoys more influence in the 40-member Senate than the 80-member Assembly — mainly because there are fewer persons to deal with and their terms are twice as long.

It's too late for the California Unicameral proponents to amend a nonpartisan feature into their initiative, and yet, it may be that nonpartisanship is the ingredient most needed to sell the proposal to the voters.

President John F. Kennedy in his *Profiles in Courage* included George Norris as one of those exemplary elected officials who showed extraordinary ability and wisdom while facing a crisis. George Norris, the late President said, wanted "to abolish party responsibility and in its stead establish personal responsibility." In the wake of Watergate, Californians might, too. But the proposed Unicameral would not give them that opportunity.



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# Large urban school districts – the potential victims of *Serrano*

California legislators have known since 1971, when the state Supreme Court handed down the landmark *Serrano* v. *Priest* decision, that they eventually would have to come to grips with a drastic revision of the state's system for financing public schools. The court found that the property tax, as presently used, is unconstitutional because it produces more money per student in some districts than in others. But there has been no great rush by lawmakers to meet the *Serrano* requirements because to do so would mean a tax increase for most Californians estimated at $1 billion. Legislators have been able to delay action for several reasons:

- The *Serrano* ruling was not immediately binding because it simply ordered a Los Angeles County Superior Court to try the case on its merits.
- The United States Supreme Court took up a similar case in Texas and found that the property tax did not violate the U.S. Constitution. *Serrano* retained its vitality in California, however, because the state court found that it violated both the federal and state constitutions.
- The Legislature did enact SB 90 in 1972 providing far more money for so-called low-wealth school districts and relieving some of the pressure for equalization of school funds.

### Renewed pressure

Now, the pressure is starting to build again, following a ruling by the trial judge in the *Serrano* case, Bernard S. Jefferson of Los Angeles County Superior Court, that the present system is unconstitutional and must therefore be revised. Jefferson's ruling provided nothing very new (except that SB 90 did not solve the problem) but it did get the Legislature talking again about a solution. The key questions remain: When will lawmakers act, and what will they do? And, if the Legislature waits too long, will the state Supreme Court decide how schools will be financed?

The Legislature will not act this year because this is an election year and the Jefferson decision must still work its way through the appeal process. Assemblyman Leroy Greene and state Senator Albert Rodda, chairmen of the Legislature's education committees, will introduce bills containing equalization plans. But they do not expect prompt action. Observed Greene: "Everybody and his brother is running for office this year, and who wants to talk about any kind of a tax increase? I cannot conceive of any solution that is not going to raise taxes."

### Revenue variations

*Serrano* is usually described in terms of two Los Angeles County school districts — Beverly Hills and Baldwin Park. In Beverly Hills, a relatively low tax rate produces an unusually rich educational program for the children of that community's wealthy families. In Baldwin Park, a very high tax rate doesn't raise nearly enough to provide a good educational program for the offspring of that district's low-income families.

There is very little dispute about the Beverly Hills-Baldwin Park situation. The trouble is that the major impact of *Serrano* would be on so-called high-wealth districts that happen also to be loaded with low-income families with critical educational problems. These include Pasadena, Berkeley, Oakland, Richmond and San Francisco — all of which would get clobbered, even though they have large black communities needing more school funds, not less. Under SB 90, some $82 million is allocated each year to districts with heavy impact from welfare caseloads, foreign-language problems and a high rate of transiency. In other words, these are excess funds for exceptional educational problems. Assemblyman Willie L. Brown of San Francisco, chairman of the Ways and Means Committee and sponsor of the special funding plan, estimated that it would take at least $250 million to provide enough money to meet these special needs.

### Some alternatives

It may be several years before the full effect of *Serrano* is translated into legislation, partly because there are several ways to meet the court's requirements. Among them:

- *Statewide property tax.* The state would levy a uniform tax, collect and redistribute the money based on average daily attendance. This would take from those with areas having property with a high assessed value and give to those with low-assessed property values.
- *The Santa Cruz plan.* Under this proposal, origi-


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nally developed by the Santa Cruz Chamber of Commerce, an equalization program would be phased in over five years, and there would probably be allowances for special needs. This proposal has been authored by Assemblyman Dixon Arnett of Redwood City.

- *Power equalizing.* This scheme, under discussion by a committee of the state Board of Education, would reward districts for their taxing effort. For each cent a district would levy in taxes, it would get back the same amount per student (regardless of its property wealth). This would take from the rich and give to the poor.
- *Elimination of the property tax.* To do this, the state would have to levy replacement taxes — presumably increases in the sales and personal income taxes — which currently produce the bulk of state income.

The concept of full-state funding would probably mean that each district would receive the same amount of money per student — unless some additional funds (usually called an urban factor) were added for those communities having large minority populations. It could mean that a district like Beverly Hills would be forced to curtail its educational program (which would probably lead to an exodus to private schools).

The power-equalizing system would allow districts to provide a richer program by paying for it with substantially higher tax rates, which in turn would provide more money for all schools. However, it would probably be constitutional because districts with identical tax rates would get the same amount of money per pupil. This is far from the case today.

### Basic problem

John Mockler, educational specialist for the Assembly Ways and Means Committee, doesn't welcome the prospect of meeting the *Serrano* mandate (if it arrives). He claims that 62 percent of California youngsters now live in districts with above-average assessed valuation. This means that most California youngsters may be hurt rather than helped by *Serrano,* he said.

Baldwin Park and Beverly Hills are relatively small districts and hardly anyone defends the disparity between them. But in correcting situations like that (and there are quite a few smaller districts at both poles), is it necessary to harm the pupils in large districts, like Oakland and Berkeley, that have extraordinary school-financing problems despite a relatively high assessed value?

### Burden differs

Los Angeles city schools would not be affected greatly, because the area is only slightly above average in district assessed valuation and in average expenditures per pupil. San Diego would gain slightly because it has the characteristics of a typical suburban community — lower than average assessed value and few major educational problems. The biggest burden would fall upon Oakland, Berkeley, San Francisco and Long Beach. Legislators representing these areas have in the past allowed most of the money appropriated for schools to go to the low-wealth districts. This is not likely to happen if the courts insist that the *Serrano* mandate be carried out, because these cities can carry terrific weight in the Legislature, especially if one of the two current candidates for the Assembly speakership — Willie Brown and Leo McCarthy, both San Franciscans — happens to be in control of the Assembly. In that event, the price for an equalization program might well be the special $250 million appropriation to those districts with exceptional educational needs.

## *Judicial review of decisions by local government boards*

In granting a San Diego widow the opportunity to secure increased death benefits, the California Supreme Court extended the authority of courts to review decisions made by local administrative agencies. The 4-3 decision in *Strumsky* v. *San Diego County Employees' Retirement Association* was authored by Justice Raymond Sullivan and joined in by Chief Justice Donald Wright and Justices Stanley Mosk and Mathew Tobriner. Dissenting were Justices Louis Burke and Marshall McComb, and Court of Appeal Justice Lester Roth, who was assigned to the case before Justice William Clark joined the high court.

The case reached the court after Richard Strumsky died following corrective heart surgery while employed as a sergeant in the San Diego marshal's office. His widow applied for service-connected death benefits, which are substantially more than non-service-connected benefits. The retirement board denied her application by a 4-3 vote. She asked San Diego Superior Court to review the board's decision, but that court noted that it had no authority to do so and could examine only whether or not the board had abused its discretion. The trial judge said that, if he could have made an independent review of the case, however, he would have ruled that Strumsky's death was service-connected and that Mrs. Strumsky was entitled to the larger benefits.

The Supreme Court declared that, if a fundamental vested right was at stake, courts could make an independent review of the evidence, one that went far beyond an examination of the agency's exercise of its discretion. Sullivan noted that the court three years ago extended the right of courts to evaluate judicial-like decisions independently of state agencies. That action reversed a 1934 Supreme Court ruling. Sullivan said that a 1950 amendment to the state Constitution deleted the Legislature's power to confer judicial functions to local agencies.

In his dissent, Burke warned that the majority decision would disrupt the state's system of administrative review, and would burden the courts with the responsibility for reviewing decisions by thousands of local boards. Roth, in his dissent, said that the courts would find it difficult to develop a workable definition of "fundamental vested rights".

## *Denial of bail*

The Supreme Court held that only criminal defendants charged with offenses punishable by execution under the new California death-penalty law may be denied bail prior to trial. In its unanimous opinion in the cases of *Boyle on Habeas Corpus* and *Glasscock on Habeas Corpus*, the court expressly refused to rule on the constitutionality of the new law.

James Boyle III and Gene Glasscock were charged with first-degree murder and conspiracy to commit murder. They were denied bail on the ground that the state Constitution prohibited bail "for capital offenses where the proof is evident or the presumption great." The Supreme Court said, however, that the crimes charged


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# Significant court actions

against Boyle and Glasscock were not capital offenses under the new death-penalty law. Under the new law, the classes of murder subject to the death penalty are killing for hire and killing under special circumstances by a defendant who personally commits the act. In this case, the killing actually was attributed to a third defendant. As a result, Justice Mosk wrote for the court, Boyle and Glasscock were entitled to bail.

## Post no bills

By a 4-3 vote, the court struck down as unconstitutional a San Francisco ordinance limiting the right of persons to post notices on utility poles. In *Dulaney* v. *Municipal Court*, the court ruled that the law violated the right of free speech. The decision was written by Justice Sullivan and joined in by Chief Justice Wright and Justices Tobriner and Mosk. Justices Burke, McComb and Clark dissented.

The San Francisco law required that permission be obtained from the utility-pole owner and the Department of Public Works before notices could be posted. Teresa Dulaney and Joel Shapiro were arrested for posting without permission an announcement of an antiwar rally on a pole. The court ruled the ordinance invalid for failing to state the conditions under which permission would be granted or withheld, leaving licensing officials free to control the content of speech.

Burke argued that the ordinance should not have been struck down in its entirety but should have been interpreted to apply only to posters not protected under free speech, such as commercial and advertising material.

## Welfare and babies

A unanimous decision by the court invalidated a state welfare regulation that deducted from the aid to a pregnant mother an amount calculated to measure the unborn child's reduced need for food, clothing and shelter. The ruling, in *California Welfare Rights Organization* v. *Brian*, was authored by Justice Burke. The Department of Social Welfare regulation provided for a deduction from the Aid to Families with Dependent Children (AFDC) grant payable to the mother and her unborn child of the value of the nourishment and shelter supplied by the mother during pregnancy. The Supreme Court ordered the regulation rescinded, holding that neither state nor federal law permitted it.

The Department of Social Welfare contended that the deduction was allowed because state law permitted it to deduct certain "resources" and "in-kind income" from grants to AFDC recipients. The court held, however, that the Legislature did not intend to include nourishment and shelter provided a fetus by its mother in its definitions of resources and in-kind income.

## Evidence of drunkenness

The court suggested that the Legislature determine what types of drunk-testing equipment must be preserved in drunk-driving cases in order to meet constitutional due-process requirements. The suggestion came in a unanimous decision in *People* v. *Hitch*, in which the court ruled that the destruction of Breathalyser equipment used to test the blood-alcohol content of a drunk-driving suspect violated the right to due process of law.

The decision, written by Justice McComb, said that destruction of the equipment deprived the defendant of important evidence. McComb observed that a legislative determination of what testing equipment must be preserved and for how long would save the courts from making a case-by-case examination.

Warren Hitch, arrested on suspicion of misdemeanor drunken driving, was given a Breathalyser test. Following routine procedure, county officials later discarded the examination solution. Hitch contended that the solution might have been helpful as evidence in his defense had it not been destroyed, and the Supreme Court agreed that his due-process rights had been violated.

## Selling someone else's car

The court, in a unanimous opinion written by Justice Clark, struck down as unconstitutional a law allowing auto mechanics to sell the cars of customers who had not paid for repairs. In *Adams* v. *Department of Motor Vehicles*, the court ruled that the garageman's lien statute violated due-process requirements. The law said that, if the owner of an auto valued at $200 or more did not pay the amount due within 10 days, the garageman could give notice to the owner and then sell the car. The Department of Motor Vehicles had authority to transfer title of the car if the prior owner did not redeem the vehicle within 20 days. The court said the owner is entitled to a hearing before the car is sold. It also ruled, however, that the repairman retains the right to keep possession of the car until the dispute is settled.

The case was brought to the court by Isabel Adams, who disputed a bill for repairs made to her car. The car was sold, and Adams asked the court to prohibit DMV from transferring title.

## Putting it in writing

The Adult Authority must write out its reasons for refusing parole, the court ruled in *In re Robert Sturm on Habeas Corpus*. Sturm, now on parole, had sought relief after having been imprisoned for 25 years after conviction of a murder committed when he was 18. During the last 10 of these years, the court was told, Sturm had conducted himself in exemplary fashion, had learned a trade and received psychiatric evaluations that revealed no harbored hostility or aggression. Yet, his application for parole was annually denied without comment, until he undertook legal action.

In the unanimous opinion, written by Wright, the court concluded that, "in the absence of a definitive written statement of its reasons for denying parole . . . , the authority effectively deprives the inmate of procedural due process of law."

—Compiled by Dennis Campbell



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# California NEWSMAKERS

The state Public Utilities Commission opened its decision conference to the public for the first time in 60 years April 23rd when state Senator **George Moscone** and gubernatorial candidate **William Matson Roth** appeared with a group of supporters in an effort to open the proceedings. The previous week, reporter **R. L. Revenaugh** of the San Francisco Examiner was arrested for refusing to leave the hearing room at the start of the conference.

The conflict between **Ray B. Hunter,** director of the state Department of Conservation, and State Forester **Lewis A. Moran** resulted in the demotion of Moran to the post of deputy state forester. Hunter said he and Moran differed sharply on organization of the forestry division and on other matters. Moran, who was state forester for three years, was promptly supported by the new state Forestry Board, which announced its intention to explore ways to have him reinstated. Directors of the Division of Forestry Employees Association then voted unanimously to seek Hunter's resignation. Legislative Analyst **A. Alan Post** informed the Legislature that the reorganization move — the key item of dispute — resulted in the shift of personnel from Moran's office to Hunter's.

Supreme Court Justice **Stanley Mosk,** it was revealed, has maintained a political campaign fund and made contributions in 1970 to unsuccessful Democratic candidates for statewide office. Mosk said the fund dated back to his 1962 reelection campaign for attorney general and was maintained because of a possibility that he might return to the political arena . . . . **Eric J. Younger,** 30-year-old son of Attorney General **Evelle Younger**, was named to the Municipal Court bench in Los Angeles by Governor **Ronald Reagan.** The younger Younger had been an assistant attorney general since 1971.

Los Angeles City Councilman **Billy G. Mills** was named a Superior Court judge by Reagan, and a special election will be held June 25th to fill Mills' council vacancy. A Democrat, Mills supported President Nixon in 1972 and Reagan's unsuccessful tax-limitation initiative last November . . . . The Senate Rules Committee side-tracked confirmation of Dr. **J. M. Stubblebine** as head of the California Commission on Aging. Chairman **James R. Mills** said Stubblebine, former director of the state Department of Health, does not meet the qualifications for the job because he has no experience in the field of aging . . . . Assembly Speaker **Bob Moretti** accepted the resignation of Assemblyman **Louis J. Papan** as vice-chairman of the Transportation Committee, presumably reducing the potential for future physical conflict between Papan and the committee chairman, **Ken Meade.** Papan apparently knocked Meade out cold in March during a dispute . . . . Former state Senator **Stephen P. Teale** was elected chairman of the state's new Commission on Postsecondary Education.

APPOINTMENTS: **Patricia A. Gayman**, Governor Reagan's scheduling secretary since 1967, as director of the state Department of Consumer Affairs . . . . **Mark N. Christensen**, vice-chancellor at the University of California's Berkeley campus, as chancellor of the Santa Cruz campus . . . . **Janet Johnston** of Winters, former co-chairman of the Republican National Committee, as deputy director of the U.S. Trade Center in Paris . . . . **Jacob P. Frankel**, dean of faculty at Harvey Mudd College, as president of California State College at Bakerfield . . . . **Robert G. Van Allen** of Hawthorne and **Gerald M. Poznanovich** of Santa Rosa to the California Tahoe Regional Planning Agency . . . . **Claudia H. Hampton** of Los Angeles and **Yvonne W. Larson** of San Diego as trustees of the California State University and Colleges . . . . **Manuel V. Ceja** as chief of the state Division of Compensatory Education.

# CALIFORNIA CALENDAR

Meetings of the following state boards and commissions are listed each month only if a meeting is scheduled: Trustees of the California State Univeristy and Colleges; California Community Colleges Board of Governors; California Council on Criminal Justice; Coordinating Council for Higher Education; Board of Education; Highway Commission; Little Hoover Commission; Park and Recreation Commission; University of California Board of Regents.

| | |
|---|---|
| May 8-9 | **Air Resources Board.** State Office Building, Room 1194, 455 Golden Gate Ave., San Francisco. 9:30 a.m. |
| May 9-10 | **Board of Education.** Resources Building Auditorium, 1416 9th St., Sacramento. 9:00 a.m. |
| May 12-15 | **Annual Conference of California Peace Officers' Association.** Sheraton-Harbor Island Hotel, 1380 Harbor Island Drive, San Diego. |
| May 14-16 | **Board of Equalization.** 1020 N St., Room 102, Sacramento. 2 p.m. |
| May 15-16 | **Highway Commission.** 1120 N St., Sacramento. |
| May 17 | **University of California Regents.** Los Angeles Convention Center. |
| May 23-25 | **Law Revision Commission.** State Bar Building, 601 McAllister St., San Francisco. 7 p.m. |
| May 28-29 | **State University and Colleges Trustees.** Chancellor's Office, 5670 Wilshire Blvd., Los Angeles. |
| May 30-31 | **Commission on the Status of Women.** Governor's Council Room, State Capitol, 9 a.m. |
| May 31 | **Fish and Game Commission.** Room 1138, New State Building, 107 S. Broadway, Los Angeles. 9 a.m. |
| June 4 | **Coordinating Council on Higher Education.** Host of Sacramento Hotel, Metropolitan Airport. 9 a.m. **Primary Election.** |

The following boards and commissions follow a regular monthly schedule: Board of Agriculture, first Thursday of each month; Allocation Board, second Tuesday, San Francisco Bay Conservation and Development Commission, first and third Thursdays; Coastal Commission, first and third Wednesdays; Consumer Advisory Council, second Wednesday; Public Works Board, last Monday; Reclamation Board, second and fourth Fridays; Soil Conservation Commission, fourth Tuesday; State Lands Commission, last Thursday; Transportation Board, first Thursday; California Water Commission, first Friday; and Water Resources Control Board, first and third Thursdays.



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# The rights of oil dealers and rape victims

The energy crisis may have subsided at your local service station, but it remained in full force through April as far as the Legislature was concerned. The Assembly passed three measures designed to protect the franchised dealer from the major petroleum firms and approved an urgency bill, AB 3102 (Fenton), placing a two-year moratorium on the establishment of any additional gasoline dealerships after July 1st. As far as the oil companies are concerned, however, the big blow was struck by Attorney General Evelle J. Younger. He announced his sponsorship of legislation requiring the petroleum firms to get out of the retail gasoline business. Such a move is necessary, he said, to break the "chain of control" that allows these corporations to dominate the industry from oil well to gas pump. Adoption of his proposal, the product of a Younger task force, would result in the ownership and operation of all retail service stations in California by independent dealers. Albert J. Shults, oil company lobbyist, said the measure "sounds like the same old dog that's been kicked around at the federal level." Younger's plan has been introduced in the Senate by Democrat James R. Mills and Republican Peter H. Behr, and in the Assembly by Republican Robert Nimmo.

The other major event in April was passage by the Senate of a bill by Senator Alan Robbins significantly changing the state's rape laws. Women's organizations have complained that the present rules of evidence in effect make the victim of a rape the defendant because her entire sexual history is admissible as evidence. Robbins' bill would make such evidence inadmissible, except for any sexual relations with the accused. Several other bills designed to make it easier to convict rapists are also under consideration.

## VOTING RECORDS

*Listed here are the votes of legislators on recent major roll calls through April 21st. Votes selected involve issues of major importance, issues on which there was a major division of opinion, or both.*

**Y — Yes N — No**
*** — Absent or not voting**

A ⅔ vote is required for urgency measures, constitutional amendments, and appropriations.

**Assembly:** 41 votes required for passage of bills requiring a simple majority.
⅔ = 54 votes.

**Senate:** 21 votes required for passage of bills requiring a simple majority.
⅔ = 27 votes.

### Senate

#### BUSINESS and LABOR

**AB 1774** (Dixon) — Prohibits firms licensed under the Business and Professions Code from discriminating by race, creed, sex, color, national ancestry or religion. Passed 21-14.

**AB 819** (Kapiloff) — Prohibits cities and counties from requiring policemen and firemen to work overtime at less than time and one-half, except in an emergency. Passed 21-16.

#### CRIMINAL JUSTICE

**SB 1678** (Robbins) — Prohibits in rape prosecutions the admission of evidence relating to a woman's sexual history with persons other than the defendant. Passed 31-3.

#### EDUCATION

**SB 1600** (Petris) — Prohibits use of corporal punishment on students in special-education classes. Passed 21-6.

**AB 1314** (Leroy Greene) — Requires school districts with an average daily attendance of 1,501 or more to establish procedures for controlling violence on school campuses. Authorizes a principal to close school when

| SENATE (21 D, 18 R) | AB 1774 | AB 819 | SB 1678 | SB 1600 | AB 1314 | AB 2667 | SB 1498 | AB 977 | SB 1486 | SB 1507 | AB 286 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Alquist (D) | Y | Y | * | Y | Y | Y | N | Y | Y | Y | Y |
| Ayala (D) | Y | N | Y | Y | N | Y | Y | Y | Y | Y | Y |
| Behr (R) | Y | Y | * | Y | * | Y | N | Y | N | N | N |
| Beilenson (D) | Y | Y | Y | Y | N | Y | Y | Y | Y | Y | Y |
| Berryhill (R) | N | N | Y | N | * | Y | Y | N | N | N | N |
| Biddle (R) | N | N | Y | N | Y | Y | N | N | N | N | N |
| Bradley (R) | * | N | Y | N | N | N | * | * | N | N | N |
| Carpenter (R) | N | * | Y | N | Y | Y | N | N | N | N | N |
| Collier (D) | * | N | * | * | Y | Y | N | N | Y | Y | Y |
| Cusanovich (R) | N | N | Y | Y | Y | Y | N | N | N | N | N |
| Deukmejian (R) | N | N | Y | Y | N | N | * | Y | N | N | N |
| Dills (D) | Y | Y | Y | Y | * | * | Y | * | * | Y | Y |
| Dymally (D) | Y | Y | * | * | * | * | * | * | * | * | Y |
| Gregorio (D) | Y | N | Y | Y | Y | Y | Y | * | Y | Y | * |
| Grunsky (R) | N | Y | * | Y | * | Y | N | N | N | N | Y |
| Harmer (R) | N | * | N | * | * | * | N | N | * | * | * |
| Holmdahl (D) | Y | N | Y | Y | * | Y | Y | N | Y | Y | N |
| Kennick (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| Marks (R) | Y | Y | * | * | Y | * | Y | * | Y | Y | Y |
| Marler (R) | N | N | * | Y | * | N | N | N | N | N | N |
| Mills (D) | Y | Y | Y | * | Y | * | Y | N | Y | Y | * |
| Moscone (D) | Y | Y | Y | Y | N | Y | Y | N | Y | Y | * |
| Nejedly (R) | N | Y | Y | Y | Y | Y | N | N | N | N | N |
| Petris (D) | Y | Y | Y | Y | Y | Y | Y | * | Y | Y | N |
| Richardson (R) | * | N | * | Y | Y | * | * | * | Y | N | N |
| Robbins (D) | Y | Y | Y | Y | Y | Y | N | * | Y | N | * |
| Roberti (D) | Y | Y | Y | Y | N | * | * | N | Y | Y | Y |
| Rodda (D) | Y | Y | Y | Y | Y | Y | * | * | Y | Y | Y |
| Schrade (R) | N | Y | Y | Y | Y | N | N | N | N | N | * |
| Short (D) | Y | Y | * | * | * | Y | Y | N | Y | Y | Y |
| Song (D) | Y | Y | N | Y | Y | Y | * | N | Y | Y | * |
| Stevens (R) | N | N | Y | Y | Y | N | Y | N | * | * | N |
| Stiern (D) | Y | N | Y | Y | * | Y | * | * | Y | N | * |
| Stull (R) | N | N | Y | N | N | N | N | N | N | N | N |
| Walsh (D) | * | Y | Y | * | * | * | Y | * | Y | Y | * |
| Way (R) | N | N | Y | * | * | N | N | N | N | N | N |
| Wedworth (D) | Y | Y | * | * | N | * | * | * | Y | Y | Y |
| Whetmore (R) | N | N | Y | N | Y | N | N | N | Y | N | * |
| Zenovich (D) | Y | Y | * | Y | * | Y | Y | N | Y | Y | * |


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there is danger to students or employees. Passed 23-8.

**AB 2667** (Berman) — Prohibits use of recording devices in schools unless the teacher and principal consent. Passed 25-4.

### ENVIRONMENT

**SB 1498** (Nejedly) — Establishes the California Wilderness Preservation System and requires certain wilderness areas to be maintained as state reserves. Passed 25-5.

**AB 977** (Chappie) — Prohibits operation or sale of motorboats whose engines exceed prescribed noise levels. Failed 3-27.

### MISCELLANEOUS

**SB 1486** (Gregorio) — Requires seven members of the California Arts Commission to be private citizens widely known in the performing and visual arts, and specifies that two of these shall represent performing artists and two shall represent ethnic minorities. Passed 21-14.

**SB 1507** (Marks) — Prohibits coding of voter registration affidavits to indicate that a voter has signed an initiative, referendum, or recall petiton unless the code can be readily deciphered by clerk. Prohibits disclosure of such information. Passed 21-14.

**AB 286** (Garcia) — Requires notaries public to post specified notices in English and Spanish relating to their legal advice and fees. Failed 17-14.

## Assembly

### ELECTIONS

**AB 2690** (Fenton) — Prohibits use of notations on affidavits of registration to indicate a voter has signed an initiative petition, and forbids dissemination by petition-circulators or election officials of names of voters who have signed petitions. Passed 46-25.

**AB 3191** (Keysor) — Requires publication of a warning on any ballot on which appear two or more candidates for the same office having identical names. Passed 54-16.

### FUEL REGULATION

**AB 3101** (Fenton) — Allows franchised petroleum dealers to purchase petroleum products from any available source if the franchisor is unable to supply them and prohibits the franchisor from forcing franchisee to supply tires, batteries, and accessories provided exclusively by the franchisor. Passed 61-5.

**AB 3102** (Fenton) — Places a two-year moratorium after July 1, 1974, on establishment of any new gasoline dealerships. Passed 54-19.

**AB 3105** (Meade) — Allows any gasoline dealer whose franchise has been terminated or cancelled or whose renewal request has been refused to file an action for damages unless the contract provided for arbitration. Passed 50-17.

**AB 3107** (Ingalls) — Provides that the franchised dealer of a gasoline station cannot be precluded from setting his or her own hours of business, and prohibits the franchisor from giving the dealer a price rebate as an inducement for selling gasoline. Passed 46-13.

### HEALTH and WELFARE

**SB 1253** (Behr) — Specifies that altering, falsifying, forging or duplicating an authorization to purchase food stamps is punishable by imprisonment for up to 3 years or by a fine of $1,000. Passed 56-14.

### JUSTICE

**AB 2758** (Sieroty) — Reduces penalties for possession of marijuana, and makes possession of four ounces on a first offense a misdemeanor. Passed 47-22.

### MISCELLANEOUS

**SB 1466** (Moscone) — Declares state policy to be that elementary, high-school and community-college classes shall be conducted without regard to sex, and prohibits requiring a pupil to take a course not also required of a pupil of the opposite sex. Passed 47-18.

**AB 2884** (Ingalls) — Increases the annual salaries of members of the state Air Resources Board to $25,000, revises qualifications for appointment to the board and requires members to devote their full time to board duties. Passed 59-7.

| ASSEMBLY (49 D, 31 R) | AB 2690 | AB 3191 | AB 3101 | AB 3102 | AB 3105 | AB 3107 | SB 1253 | AB 2758 | SB 1466 | AB 2884 |
|---|---|---|---|---|---|---|---|---|---|---|
| Alatorre (D) | Y | Y | Y | Y | * | Y | * | Y | Y | * |
| Antonovich (R) | Y | N | Y | * | N | N | N | * | N | N |
| Arnett (R) | N | N | Y | Y | Y | Y | Y | Y | Y | Y |
| Badham (R) | N | N | N | N | N | * | N | N | N | Y |
| Bagley (R) | N | * | Y | Y | Y | * | Y | * | * | Y |
| Bannai (R) | Y | N | Y | N | N | * | N | N | * | Y |
| Bee (D) | * | Y | Y | * | Y | * | Y | Y | * | Y |
| Berman (D) | Y | Y | Y | Y | Y | Y | * | Y | Y | Y |
| Beverly (R) | N | N | Y | N | N | N | Y | Y | Y | Y |
| Boatwright (D) | Y | Y | * | Y | Y | Y | * | Y | Y | Y |
| Bond (R) | * | * | * | N | Y | * | Y | * | * | Y |
| Briggs (R) | N | N | N | N | N | N | N | N | Y | Y |
| Brown (D) | Y | * | * | Y | Y | Y | Y | Y | * | * |
| Burke (R) | N | N | N | N | N | N | N | N | N | N |
| Burton (D) | Y | Y | Y | Y | Y | * | Y | Y | Y | Y |
| Carter (R) | Y | Y | Y | Y | * | Y | * | * | Y | * |
| Chacon (D) | Y | * | * | Y | Y | * | * | Y | Y | Y |
| Chappie (R) | * | N | Y | N | * | * | * | * | * | * |
| Cline (R) | N | N | Y | Y | * | N | N | N | Y | Y |
| Collier (R) | N | * | * | N | N | N | N | N | N | N |
| Cory (D) | Y | * | * | Y | Y | Y | Y | Y | Y | Y |
| Craven (R) | N | Y | N | Y | Y | N | N | * | Y | Y |
| Cullen (D) | Y | Y | * | Y | N | * | Y | Y | Y | Y |
| Davis (D) | N | Y | Y | Y | Y | * | Y | N | Y | Y |
| Deddeh (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| Dixon (D) | Y | Y | Y | Y | Y | * | Y | Y | Y | Y |
| Duffy (R) | N | Y | Y | * | * | Y | N | N | Y | Y |
| Dunlap (D) | Y | Y | Y | Y | Y | Y | * | Y | Y | * |
| Fenton (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| Fong (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| Foran (D) | Y | * | * | Y | Y | Y | Y | Y | Y | Y |
| Garcia (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| Gonsalves (D) | Y | Y | Y | * | Y | Y | Y | * | Y | * |
| Gonzales (D) | Y | Y | N | Y | Y | Y | Y | Y | Y | Y |
| Greene, B. (D) | * | Y | Y | Y | * | Y | * | Y | * | Y |
| Greene, L. (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| Hayden (R) | Y | Y | Y | * | Y | Y | N | Y | Y | Y |
| Holoman (D) | * | Y | Y | Y | * | * | Y | * | * | * |
| Ingalls (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| Johnson, H. (D) | Y | Y | Y | Y | Y | * | Y | Y | Y | Y |
| Johnson, R. (R) | N | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| Kapiloff (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| Karabian (D) | Y | * | * | * | * | * | * | * | Y | Y |
| Keene (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| Keysor (D) | * | Y | Y | Y | * | Y | Y | Y | * | Y |
| Knox (D) | Y | N | Y | Y | N | Y | Y | Y | Y | Y |
| Lancaster (R) | Y | N | Y | N | * | N | N | N | N | N |
| Lanterman (R) | N | N | Y | N | * | * | * | N | N | * |
| Lewis (R) | N | Y | Y | N | Y | N | N | N | N | Y |
| Lockyer (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| MacDonald (D) | Y | Y | Y | Y | N | Y | Y | Y | * | Y |
| MacGillivray (R) | N | Y | Y | N | N | N | Y | N | N | N |
| Maddy (R) | N | Y | Y | * | * | Y | Y | Y | Y | Y |
| McAlister (D) | Y | Y | Y | Y | Y | Y | Y | N | Y | Y |
| McCarthy (D) | Y | * | * | Y | Y | Y | Y | Y | Y | Y |
| McLennan (R) | N | N | * | N | N | N | N | N | N | * |
| Meade (D) | Y | Y | Y | Y | Y | Y | Y | * | Y | Y |
| Miller (D) | N | Y | Y | N | Y | * | Y | Y | Y | Y |
| Mobley (R) | N | Y | Y | Y | Y | N | Y | N | Y | Y |
| Montoya (D) | Y | Y | Y | Y | Y | Y | Y | Y | * | Y |
| Moretti (D) | Y | Y | Y | Y | Y | * | Y | * | Y | Y |
| Murphy (R) | * | N | Y | N | N | Y | N | N | Y | Y |
| Nimmo (R) | Y | * | * | N | N | Y | N | N | N | Y |
| Papan (D) | N | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| Powers (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| Priolo (R) | N | Y | Y | Y | Y | N | N | * | N | Y |
| Quimby (D) | Y | * | * | * | * | Y | * | Y | N | * |
| Ralph (D) | Y | Y | Y | Y | Y | * | Y | Y | * | * |
| Russell (R) | N | N | Y | * | N | N | N | N | N | N |
| Seeley (R) | * | Y | * | N | N | * | Y | * | * | * |
| Sieroty (D) | Y | Y | Y | Y | * | Y | * | Y | Y | * |
| Thomas (D) | * | Y | Y | Y | Y | * | Y | Y | * | Y |
| Thurman (D) | Y | * | Y | Y | Y | Y | Y | Y | Y | Y |
| Vasconcellos (D) | Y | Y | Y | Y | Y | Y | * | Y | Y | Y |
| Wakefield (R) | N | N | N | N | N | N | N | N | N | N |
| Warren (D) | N | Y | Y | Y | Y | Y | Y | Y | * | Y |
| Waxman (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| Wilson (D) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| Wood (R) | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| Z'berg (D) | N | Y | Y | Y | Y | Y | Y | Y | Y | Y |



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# A WASHINGTON PERSPECTIVE...

By Lou Cannon

## *Rights of the accused*

Politicians of any given persuasion are apt to be enormously sensitive to the preservation of civil liberties when the rights of their friends appear to be endangered. It was the conservatives of the New Deal and Fair Deal era, during the American business community's time of trial, who denounced the excessive concentration of power in the Presidency. The liberals of the McCarthy period complained about the abuses of the congressional investigating committees, when liberals were on the receiving end of most of the abuses. About the same time, Communist leaders in this country were prosecuted under the legislation they had applauded during World War II, when the Smith Act was aimed at anti-Soviet adversaries on the non-Communist left. It is a rare politician who rises with equal fervor to defend the civil liberties of his opponents. And it is within this context of the normal political self-servingness that the concern of California Representatives Jerome Waldie and Don Edwards for the civil liberties of Richard Nixon must be considered.

* * *

Both Waldie and Edwards are Democratic members of the House Judiciary Committee, and both have a long and sometimes emotional record of opposition to Nixon. Waldie, in fact, favored impeachment before the committee's inquiry even started, and Edwards is regarded as one of the most likely pro-impeachment votes. Even so, the President is going to gain valuable time and the opportunity for his excellent attorney, James St. Clair, to cross-examine witnesses because Waldie and Edwards take their civil liberties seriously.

The issue arose when St. Clair demanded the right to cross-examine any witnesses who provided information against President Nixon. The reaction of the committee was predictably knee-jerk, with Republicans asserting cross-examination as a sacred right and Democrats rejecting it as unconstitutional. Actually, there is no established right to cross-examination in an impeachment inquiry any more than in a grand jury probe, and lawyers who have examined the subject believe that Congress can pretty much write its own rules as to procedures.

Fairness, however, is something else again. Privately, most Democrats on the committee probably would have been willing to grant St. Clair a cross-examination privilege except for their irritation at the continued White House stalling on key evidence while President Nixon was urging publicly that Congress rush to judgment on impeachment.

Waldie and Edwards said, in effect, that the Judiciary Committee had to play by the rules no matter what the President did. Waldie recalled what liberals had said about congressional "star chamber" proceedings when the House Un-American Activities Committee, since renamed, was wrecking the careers of people it called as unfriendly witnesses. "These proceedings were essentially accusatory in nature, and counsel was provided," Waldie said. "It would take an awful lot to convince me that House impeachment proceedings aren't equally accusatory."

Waldie is confident that the evidence will induce the House to impeach Nixon, but he also maintains that no impeachment ultimately can be acceptable unless supported by Republicans as well as Democrats. "There have to be Republican votes to put this out of the committee and the House, or it shouldn't come out," Waldie said. "It wouldn't be right to impeach on a partisan division."

Edwards, chairman of Judiciary's civil rights oversight subcommittee, is one of the House's most scrupulous civil libertarians. He points out that Judiciary's responsibility for civil rights oversight imposes a special burden on the committee. "We're not only the committee that's impeaching Mr. Nixon," said Edwards, "we're the guardians of the Bill of Rights. If we don't take seriously the right of an accused to be confronted by his accusers, who will?"

Waldie and Edwards were engaged in much more than a grandstand play. Committee Chairman Peter Rodino is an experienced practitioner of congressional consensus politics who is as aware of historical reckoning as is Richard Nixon. Rodino is mindful that history will sharply scrutinize the method in which the impeachment inquiry is conducted, and this view is shared by a majority on the committee. The result, therefore, of the vocal protest by the two California congressmen — a protest joined by two or three other Democratic liberals on the committee — was that Rodino was soon talking about the conditions under which St. Clair would be allowed to cross-examine rather than whether or not he would be permitted to do so.

* * *

In politics, as in life, inequity tends to beget inequity. When the Democrats were flirting with a harsh party-line position on the St. Clair request, it quickly reproduced equally partisan sentiments on the Republican side, and for a few days there was the chance of the kind of partisan confrontation that the White House has appeared to desire. But the "lynch mob" that White House special assistant Patrick Buchanan had warned about did not materialize. Instead, scrupulous respect for civil liberties prevailed, and this in turn motivated the vast majority of Republicans to join their Democratic colleagues in issuing the subpoena after the President had, in effect, told the committee to go climb a flagpole.

It is an increasingly popular opinion on the Judiciary Committee that the country is perfectly capable of surviving either the removal of Nixon from office or the President's retention for the balance of his term, providing that the result is constitutionally achieved. What will happen with the impeachment resolution, if it reaches the Senate, is anybody's guess. But the House Judiciary Committee, aided by the sense of fairness of Edwards and Waldie, has made a good start. In the process of accusing the President, the committee has re-affirmed the rights of anyone who stands accused.



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Political campaigns are designedly made into emotional orgies which endeavor to distract attention from the real issues involved, and they actually paralyze what slight powers of cerebration man can normally muster. --James Harvey Robinson

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